

House Bill 242 (AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 51<sup>st</sup>, Coomer of the 14<sup>th</sup>, Hatchett of the 150<sup>th</sup>, Nimmer of the 178<sup>th</sup>, Oliver of the 82<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 substantially revise, supersede, and modernize provisions relating to juvenile proceedings  
3 and enact comprehensive juvenile justice reforms recommended by the Governor's Special  
4 Council on Justice Reform in Georgia; to provide for purpose statements; to provide for  
5 definitions; to provide for general provisions; to provide for juvenile court administration;  
6 to provide for dependency proceedings; to provide for venue; to provide for taking children  
7 into care; to provide for preliminary protective hearings; to provide for petitions alleging  
8 dependency; to provide for summons and service; to provide for preadjudication procedures;  
9 to provide for adjudication; to provide for predisposition social study; to provide for family  
10 reunification determinations; to provide for disposition of dependent children; to provide for  
11 permanency plan hearings for dependent children; to provide for permanent guardianship;  
12 to provide for termination of parental rights; to provide for petitions to terminate parental  
13 rights and summons; to provide for hearings on such petitions; to provide for grounds for  
14 terminating parental rights; to provide for disposition of children whose parental rights have  
15 been terminated; to provide for children in need of services; to provide for formal court  
16 proceedings for children in need of services; to provide for preadjudication custody and  
17 release of children in need of services; to provide for a petition seeking an adjudication that  
18 a child is a child in need of services; to provide for adjudication, disposition, and reviews;  
19 to provide for a permanency plan for children in need of services; to provide for children  
20 with mental health issues; to provide for delinquency; to provide for custody and release of  
21 a child including the use of detention assessments; to provide for intake and arraignment; to  
22 provide for informal adjustment; to provide for a petition alleging delinquency and summons;  
23 to provide for preadjudication procedures for delinquency proceedings; to provide for  
24 transfers to superior court; to revise designated felony acts; to provide for adjudication of  
25 delinquency; to provide for predisposition investigation and risk assessments; to provide for  
26 disposition hearings for delinquent children; to provide for permanency plans for delinquent  
27 children; to provide for traffic offenses; to prohibit secure confinement under certain  
28 circumstances; to provide for competency in delinquency cases; to provide for parental

29 notification of abortions; to provide for access to hearings and records; to provide for  
 30 emancipation of minors; to provide for the Office of the Child Advocate for the Protection  
 31 of Children; to amend Code Section 42-5-52 of the Official Code of Georgia Annotated,  
 32 relating to classification and separation of inmates generally and the placement of inmates,  
 33 so as to provide for the detention of children in the Department of Corrections under certain  
 34 circumstances; to amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated,  
 35 relating to the Department of Juvenile Justice, so as change provisions relating to the duties  
 36 of the Board of Juvenile Justice; to change provisions relating to the duties of the DJJ; to  
 37 amend the Official Code of Georgia Annotated so as to conform provisions to the new  
 38 Chapter 11 of Title 15 and correct cross-references; to provide for related matters; to provide  
 39 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

40 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

41 **PART I**  
 42 **JUVENILE CODE**  
 43 **SECTION 1-1.**

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

46 "CHAPTER 11  
 47 ARTICLE 1

48 15-11-1.

49 The purpose of this chapter is to secure for each child who comes within the jurisdiction  
 50 of the juvenile court such care and guidance, preferably in his or her own home, as will  
 51 secure his or her moral, emotional, mental, and physical welfare as well as the safety of  
 52 both the child and community. It is the intent of the General Assembly to promote a  
 53 juvenile justice system that will protect the community, impose accountability for  
 54 violations of law, provide treatment and rehabilitation, and equip juvenile offenders with  
 55 the ability to live responsibly and productively. It is the intent of the General Assembly  
 56 to preserve and strengthen family relationships, countenancing the removal of a child from  
 57 his or her home only when state intervention is essential to protect such child and enable  
 58 him or her to live in security and stability. In every proceeding, this chapter seeks to  
 59 guarantee due process of law, as required by the Constitutions of the United States and the  
 60 State of Georgia, through which every child and his or her parent and all other interested

61 parties are assured fair hearings at which legal rights are recognized and enforced. Above  
 62 all, this chapter shall be liberally construed to reflect that the paramount child welfare  
 63 policy of this state is to determine and ensure the best interests of its children.

64 15-11-2.

65 As used in this chapter, the term:

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

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

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

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

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

75 (D) Failure, for a period of at least six months, to participate in any court ordered plan  
 76 or program designed to reunite a child's parent, guardian, or legal custodian with his or  
 77 her child;

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

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

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

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

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

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

90 (2) 'Abuse' means:

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

94 (B) Emotional abuse;

95 (C) Sexual abuse or sexual exploitation;

96 (D) Prenatal abuse; or

- 97 (E) The commission of an act of family violence as defined in Code Section 19-13-1  
98 in the presence of a child. An act includes a single act, multiple acts, or a continuing  
99 course of conduct. As used in this subparagraph, the term 'presence' means physically  
100 present or able to see or hear.
- 101 (3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this  
102 Code section.
- 103 (4) 'Affiliate court appointed special advocate program' means a locally operated  
104 program operating with the approval of the local juvenile court which screens, trains, and  
105 supervises volunteers to advocate for the best interests of an abused or neglected child in  
106 dependency proceedings.
- 107 (5) 'Aggravated circumstances' means the parent has:
- 108 (A) Abandoned an infant;  
109 (B) Attempted, conspired to attempt, or has subjected a child or his or her sibling to  
110 death or great bodily harm;  
111 (C) Attempted, conspired to attempt, or has subjected a child or his or her sibling to  
112 torture, chronic abuse, sexual abuse, or sexual exploitation; or  
113 (D) Committed the murder or voluntary manslaughter of his or her child's other parent  
114 or has been convicted of aiding or abetting, attempting, or soliciting the murder or  
115 voluntary manslaughter of his or her child's other parent.
- 116 (6) 'Biological father' means the male who impregnated the biological mother resulting  
117 in the birth of a child.
- 118 (7) 'Business day' means Mondays through Fridays and shall not include weekends or  
119 legal holidays.
- 120 (8) 'Caregiver' means any person providing a residence for a child or any person legally  
121 obligated to provide or secure adequate care for a child, including his or her parent,  
122 guardian, or legal custodian.
- 123 (9) 'Case plan' means a plan which is designed to ensure that a child receives protection,  
124 proper care, and case management and may include services for a child, his or her parent,  
125 guardian, or legal custodian, and other caregivers.
- 126 (10) 'Child' means any individual who is:
- 127 (A) Under the age of 18 years;  
128 (B) Under the age of 17 years when alleged to have committed a delinquent act;  
129 (C) Under the age of 22 years and in the care of DFCS;  
130 (D) Under the age of 23 years and eligible for and receiving independent living  
131 services through DFCS; or

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

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

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

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

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

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

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

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

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

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

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

156 (12) 'Class A designated felony act' means a delinquent act committed by a child 13  
 157 years of age or older which, if committed by an adult, would be one or more of the  
 158 following crimes:

159 (A) Aggravated assault in violation of paragraph (1) or (3) of subsection (a) or  
 160 subsection (c), (d), (e), (i), or (l) of Code Section 16-5-21 or assault with a deadly  
 161 weapon or with any object, device, or instrument which, when used offensively against  
 162 a person, actually does result in serious bodily injury;

163 (B) Aggravated battery;

164 (C) Armed robbery not involving a firearm;

165 (D) Arson in the first degree;

166 (E) Attempted murder;

167 (F) Escape in violation of Code Section 16-10-52, if such child has previously been  
 168 adjudicated to have committed a class A designated felony act or class B designated  
 169 felony act;

170 (G) Hijacking a motor vehicle;

171 (H) Kidnapping;

172 (I) Participating in criminal gang activity, as defined in subparagraphs (A) through (G)  
 173 and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

174 (J) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;

175 (K) Any other act which, if committed by an adult, would be a felony in violation of  
 176 Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for  
 177 delinquent acts all of which, if committed by an adult, would have been felonies in  
 178 violation of any chapter of Title 16, provided that the prior adjudications of delinquency  
 179 shall not have arisen out of the same transaction or occurrence or series of events  
 180 related in time and location; or

181 (L) Any other act which, if committed by an adult, would be a felony, if such child has  
 182 three times previously been adjudicated for delinquent acts all of which, if committed  
 183 by an adult, would have been felonies in violation of any chapter of Title 16 and one  
 184 of which, if committed by an adult, would have been a felony in violation of Chapter  
 185 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have  
 186 arisen out of the same transaction or occurrence or series of events related in time and  
 187 location.

188 (13) 'Class B designated felony act' means a delinquent act committed by a child 13  
 189 years of age or older which, if committed by an adult, would be one or more of the  
 190 following crimes:

191 (A) Aggravated assault in violation of subsection (f), (g), or (j) of Code Section  
 192 16-5-21 or assault with a deadly weapon or with any object, device, or instrument  
 193 which, when used offensively against a person, would be likely to result in serious  
 194 bodily injury but which did not result in serious bodily injury;

195 (B) Arson in the second degree;

196 (C) Attempted kidnapping;

197 (D) Battery in violation of Code Section 16-5-23.1, if the victim is a teacher or other  
 198 school personnel;

199 (E) Racketeering in violation of Code Section 16-14-4;

200 (F) Robbery;

201 (G) Participating in criminal gang activity, as defined in subparagraph (H) of paragraph  
 202 (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

203 (H) Smash and grab burglary;

204 (I) Possessing, manufacturing, transporting, distributing, possessing with the intent to  
205 distribute, or offering to distribute a destructive device in violation of Code Section  
206 16-7-82;

207 (J) Distributing certain materials to persons under the age of 21 in violation of Code  
208 Section 16-7-84;

209 (K) Any subsequent violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2  
210 through 16-8-9, if the property which was the subject of the theft was a motor vehicle  
211 and such child has had one or more separate, prior adjudications of delinquency based  
212 upon a violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9,  
213 provided that the prior adjudications of delinquency shall not have arisen out of the  
214 same transaction or occurrence or series of events related in time and location;

215 (L) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if such child has  
216 had one or more separate, prior adjudications of delinquency based upon a violation of  
217 Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency  
218 shall not have arisen out of the same transaction or occurrence or series of events  
219 related in time and location;

220 (M) Any subsequent violation of subsection (b) of Code Section 16-11-132, if such  
221 child has had one or more separate, prior adjudications of delinquency based upon a  
222 violation of subsection (b) of Code Section 16-11-132, provided that the prior  
223 adjudications of delinquency shall not have arisen out of the same transaction or  
224 occurrence or series of events related in time and location;

225 (N) An act which constitutes a second or subsequent adjudication of delinquency based  
226 on a violation of Code Section 16-11-127.1 or which is a first violation of Code Section  
227 16-11-127.1 involving:

228 (i) A firearm, as defined in paragraph (2) of subsection (a) of Code Section  
229 16-11-131;

230 (ii) A dangerous weapon or machine gun, as defined in Code Section 16-11-121; or

231 (iii) Any weapon, as defined in Code Section 16-11-127.1, together with an assault;

232 or

233 (O) Any other act which, if committed by an adult, would be a felony in violation of  
234 any chapter of Title 16 other than Chapter 5 or 6 of Title 16, if such child has three  
235 times previously been adjudicated for delinquent acts, all of which, if committed by an  
236 adult, would have been felonies in violation of any chapter of Title 16 other than  
237 Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not  
238 have arisen out of the same transaction or occurrence or series of events related in time  
239 and location.

- 240 (14) 'Complaint' is the initial document setting out the circumstances that resulted in a  
 241 child being brought before the court.
- 242 (15) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile  
 243 matters.
- 244 (16) 'Court appointed special advocate' or 'CASA' means a community volunteer who:  
 245 (A) Has been screened and trained regarding child abuse and neglect, child  
 246 development, and juvenile court proceedings;  
 247 (B) Has met all the requirements of an affiliate court appointed special advocate  
 248 program;  
 249 (C) Is being actively supervised by an affiliate court appointed special advocate  
 250 program; and  
 251 (D) Has been sworn in by a judge of the juvenile court in the court or circuit in which  
 252 he or she wishes to serve.
- 253 (17) 'Criminal justice purposes' means the performance of any activity directly involving:  
 254 (A) The investigation, detection, apprehension, detention, pretrial release, post-trial  
 255 release, prosecution, adjudication, correctional supervision, or rehabilitation of children  
 256 or adults who are accused of, convicted of, adjudicated of, or charged with crimes or  
 257 delinquent acts; or  
 258 (B) The collection, storage, and dissemination of criminal history record information.
- 259 (18) 'DBHDD' means the Department of Behavioral Health and Developmental  
 260 Disabilities.
- 261 (19) 'Delinquent act' means:  
 262 (A) An act committed by a child designated a crime by the laws of this state, or by the  
 263 laws of another state if the act occurred in that state, under federal laws, or by local  
 264 ordinance, and the act is not an offense applicable only to a child or a juvenile traffic  
 265 offense;  
 266 (B) The act of disobeying the terms of supervision contained in a court order which has  
 267 been directed to a child who has been adjudicated to have committed a delinquent act;  
 268 or  
 269 (C) Failing to appear as required by a citation issued for an act that would be a crime  
 270 if committed by an adult.
- 271 (20) 'Delinquent child' means a child who has committed a delinquent act and is in need  
 272 of treatment or rehabilitation.
- 273 (21) 'Department' means the Department of Human Services.
- 274 (22) 'Dependent child' means a child who:  
 275 (A) Has been abused or neglected and is in need of the protection of the court;  
 276 (B) Has been placed for care or adoption in violation of law; or

- 277 (C) Is without his or her parent, guardian, or legal custodian.
- 278 (23) 'Detention assessment' shall have the same meaning as set forth in Code Section  
279 49-4A-1.
- 280 (24) 'Developmental disability' shall have the same meaning as set forth in Code Section  
281 37-1-1.
- 282 (25) 'Developmental level' is a child's ability to understand and communicate, taking into  
283 account such factors as age, maturity, mental capacity, level of education, cultural  
284 background, and degree of language acquisition.
- 285 (26) 'DFCS' means the Division of Family and Children Services of the department.
- 286 (27) 'Diligent search' means the efforts of DFCS to identify and locate a parent whose  
287 identity or location is unknown or a relative or other person who has demonstrated an  
288 ongoing commitment to a child.
- 289 (28) 'DJJ' means the Department of Juvenile Justice.
- 290 (29) 'Emancipation' means termination of the rights of a parent to the custody, control,  
291 services, and earnings of a child.
- 292 (30) 'Emotional abuse' means acts or omissions by a person responsible for the care of  
293 a child that cause any mental injury to such child's intellectual or psychological capacity  
294 as evidenced by an observable and significant impairment in such child's ability to  
295 function within a child's normal range of performance and behavior or that create a  
296 substantial risk of impairment, if the impairment or substantial risk of impairment is  
297 diagnosed and confirmed by a licensed mental health professional or physician qualified  
298 to render such diagnosis.
- 299 (31) 'Evaluation' means a comprehensive, individualized examination of a child by an  
300 examiner that may include the administration of one or more assessment instruments,  
301 diagnosing the type and extent of a child's behavioral health disorders and needs, if any,  
302 making specific recommendations, and assessing a child's legal competencies.
- 303 (32) 'Examiner' means a licensed psychologist, psychiatrist, or clinical social worker who  
304 has expertise in child development specific to severe or chronic disability of children  
305 attributable to intellectual impairment or mental illness and has received training in  
306 forensic evaluation procedures through formal instruction, professional supervision, or  
307 both.
- 308 (33) 'Fictive kin' means a person who is known to a child as a relative, but is not, in fact,  
309 related by blood or marriage to such child and with whom such child has resided or had  
310 significant contact.
- 311 (34) 'Foster care' means placement in foster family homes, child care institutions, or  
312 another substitute care setting approved by the department. Such term shall exclude

313 secure residential facilities or other facilities operated primarily for the purpose of  
 314 detention of a child adjudicated for delinquent acts.

315 (35) 'Guardian ad litem' means an individual appointed to assist the court in determining  
 316 the best interests of a child.

317 (36) 'Guardianship order' means the court judgment that establishes a permanent  
 318 guardianship and enumerates a permanent guardian's rights and responsibilities  
 319 concerning the care, custody, and control of a child.

320 (37) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any  
 321 other unique identifiers of a child.

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

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

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

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

336 (42) 'Legal custodian' means:

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

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

341 (43) 'Legal father' means a male who has not surrendered or had terminated his rights to  
 342 a child and who:

343 (A) Has legally adopted a child;

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

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

- 350 (D) Has been determined to be the father of a child by a final paternity order pursuant  
351 to Article 3 of Chapter 7 of Title 19;
- 352 (E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or  
353 (F) Has legitimated a child pursuant to Code Section 19-7-22.1.
- 354 (44) 'Legal mother' means the female who is the biological or adoptive mother of a child  
355 and who has not surrendered or had terminated her rights to such child.
- 356 (45) 'Mediation' means the procedure in which a mediator facilitates communication  
357 between the parties concerning the matters in dispute and explores possible solutions to  
358 promote reconciliation, understanding, and settlement.
- 359 (46) 'Mediator' means a neutral third party who attempts to focus the attention of the  
360 parties upon their needs and interests rather than upon their rights and positions and who  
361 lacks the authority to impose any particular agreement upon the parties or to recommend  
362 any particular disposition of the case to the court.
- 363 (47) 'Mentally ill' means having a disorder of thought or mood which significantly  
364 impairs judgment, behavior, capacity to recognize reality, or ability to cope with the  
365 ordinary demands of life.
- 366 (48) 'Neglect' means:
- 367 (A) The failure to provide proper parental care or control, subsistence, education as  
368 required by law, or other care or control necessary for a child's physical, mental, or  
369 emotional health or morals;
- 370 (B) The failure to provide a child with adequate supervision necessary for such child's  
371 well-being; or
- 372 (C) The abandonment of a child by his or her parent, guardian, or legal custodian.
- 373 (49) 'Nonsecure residential facility' means community residential locations operated by  
374 or on behalf of DJJ and may include group homes, emergency shelters, wilderness or  
375 outdoor therapeutic programs, or other facilities that provide 24 hour care in a residential  
376 setting.
- 377 (50) 'Other persons who have demonstrated an ongoing commitment to a child' includes  
378 fictive kin and other individuals, including but not limited to neighbors, teachers, scout  
379 masters, caregivers, or parents of friends of such child and with whom such child has  
380 resided or had significant contact.
- 381 (51) 'Parent' means either the legal father or the legal mother of a child.
- 382 (52) 'Party' means the state, a child, parent, guardian, legal custodian, or other person  
383 subject to any judicial proceeding under this chapter; provided, however, that for  
384 purposes of Article 6 of this chapter, only a child and the state shall be a party.
- 385 (53) 'Permanency plan' means a specific written plan prepared by DFCS designed to  
386 ensure that a child is reunified with his or her family or ensure that such child quickly

387 attains a substitute long-term home when return to such child's family is not possible or  
 388 is not in such child's best interests.

389 (54) 'Permanent placement' means:

390 (A) Return of the legal custody of a child to his or her parent;  
 391 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;  
 392 or  
 393 (C) Placement of a child with a permanent guardian.

394 (55) 'Person responsible for the care of a child' means:

395 (A) An adult member of a child's household;  
 396 (B) A person exercising supervision over a child for any part of the 24 hour day; or  
 397 (C) Any adult who, based on his or her relationship to the parent, guardian, or legal  
 398 custodian or a member of a child's household, has access to such child.

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

402 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance  
 403 or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the  
 404 result of medical treatment; or  
 405 (B) Medically diagnosed and harmful effects in a newborn's physical appearance or  
 406 functioning.

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

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

413 (59) 'Prosecuting attorney' means an attorney designated by the district attorney of the  
 414 judicial circuit in which juvenile proceedings are instituted, unless otherwise provided in  
 415 subsection (c) of Code Section 15-18-6.1.

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

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

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

422 (63) 'Restitution' means any property, lump sum, or periodic payment ordered to be made  
 423 to any victim. Restitution may also be in the form of services ordered to be performed  
 424 by a child.

425 (64) 'Restrictive custody' means in the custody of DJJ for purposes of housing in a secure  
 426 residential facility or nonsecure residential facility.

427 (65) 'Risk assessment' shall have the same meaning as set forth in Code Section 49-4A-1.

428 (66) 'Screening' means a relatively brief process to identify a child who potentially may  
 429 have mental health or substance abuse needs, through administration of a formal  
 430 screening instrument, to identify a child who may warrant immediate attention or  
 431 intervention or a further, more comprehensive evaluation.

432 (67) 'Secure residential facility' means a hardware secure residential institution operated  
 433 by or on behalf of DJJ and shall include a youth development center or a regional youth  
 434 detention center.

435 (68) 'Services' means assistance including but not limited to care, guidance, education,  
 436 counseling, supervision, treatment, and rehabilitation or any combination thereof.

437 (69) 'Sexual abuse' means a caregiver or other person responsible for the care of a child  
 438 employing, using, persuading, inducing, enticing, or coercing any child to engage in any  
 439 act which involves:

440 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or  
 441 oral-anal, whether between persons of the same or opposite sex;

442 (B) Bestiality;

443 (C) Masturbation;

444 (D) Lewd exhibition of the genitals or pubic area of any person;

445 (E) Flagellation or torture by or upon a person who is nude;

446 (F) The condition of being fettered, bound, or otherwise physically restrained on the  
 447 part of a person who is nude;

448 (G) Physical contact in an act of apparent sexual stimulation or gratification with any  
 449 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed  
 450 or unclothed breasts;

451 (H) Defecation or urination for the purpose of sexual stimulation; or

452 (I) Penetration of the vagina or rectum by any object except when done as part of a  
 453 recognized medical procedure by a licensed health care professional.

454 (70) 'Sexual exploitation' means conduct by a caregiver or other person responsible for  
 455 the care of a child who allows, permits, encourages, or requires a child to engage in:

456 (A) Prostitution, in violation of Code Section 16-6-9; or

457 (B) Sexually explicit conduct for the purpose of producing any visual or print medium  
 458 depicting such conduct, in violation of Code Section 16-12-100.

459 (71) 'Sibling' means a person with whom a child shares one or both parents in common  
 460 by blood, adoption, or marriage, even if the marriage was terminated by death or  
 461 dissolution.

462 (72) 'Staffing' means a meeting held periodically to develop and review progress on  
 463 plans for meeting the identified needs of a child.

464 (73) 'Statutory overnight delivery' means delivery of notice as provided in Code Section  
 465 9-10-12.

466 (74) 'Unsupervised probation' means a period of probation or community supervision  
 467 prior to the termination of a child's disposition in which:

468 (A) All of the conditions and limitations imposed by the court in placing such child on  
 469 probation remain intact;

470 (B) Such child may have reduced reporting requirements; and

471 (C) A probation officer shall not actively supervise such child.

472 (75) 'Visitation' means a period of access to a child by a parent, guardian, legal  
 473 custodian, sibling, other relative, or any other person who has demonstrated an ongoing  
 474 commitment to a child in order to maintain parental and familial involvement in a child's  
 475 life when he or she is not residing with such person.

476 (76) 'Weekend' means Saturday or Sunday.

477 15-11-3.

478 Through direct calendaring, whenever possible, a single judge shall hear all successive  
 479 cases or proceedings involving the same child or family.

480 15-11-4.

481 Where procedures are not provided in this chapter, the court shall proceed in accordance  
 482 with:

483 (1) Title 17 in a delinquency proceeding; and

484 (2) Chapter 11 of Title 9 in all other matters.

485 15-11-5.

486 (a) When a period of time measured in days, weeks, months, years, or other measurements  
 487 of time except hours is prescribed for the exercise of any privilege or the discharge of any  
 488 duty, the first day shall not be counted but the last day shall be counted; and, if the last day  
 489 falls on a weekend, the party having such privilege or duty shall have through the following  
 490 business day to exercise such privilege or discharge such duty.

491 (b) When the last day prescribed for the exercise of any privilege or the discharge of any  
 492 duty falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having

493 such privilege or duty shall have through the next business day to exercise such privilege  
494 or discharge such duty.

495 (c) When the period of time prescribed is less than seven days, intermediate weekends and  
496 legal holidays shall be excluded in the computation.

497 15-11-6.

498 (a) Except as provided in subsection (b) of this Code section, a child attains a specified age  
499 the first second past midnight on the day of the anniversary of such child's birth.

500 (b) A child born on February 29 attains a specified age on March 1 of any year that is not  
501 a leap year.

502 15-11-7.

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

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

517 15-11-8.

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

520 15-11-9.

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

525 15-11-10.

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

528 (1) Concerning any child who:

529 (A) Is alleged to be a delinquent child;

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

531 (C) Is alleged to be a dependent child;

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

534 (E) Is alleged to have committed a juvenile traffic offense as defined in Code Section  
 535 15-11-630;

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

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

545 (H) Requires a comprehensive services plan in accordance with Code Section  
 546 15-11-658; or

547 (2) Involving any proceedings:

548 (A) For obtaining judicial consent to the marriage, employment, or enlistment in the  
 549 armed services of any child if such consent is required by law;

550 (B) For permanent guardianship brought pursuant to the provisions of Article 3 of this  
 551 chapter;

552 (C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any  
 553 comparable law, enacted or adopted in this state;

554 (D) For the termination of the legal parent-child relationship and the rights of the  
 555 biological father who is not the legal father of the child in accordance with Article 2 of  
 556 this chapter; provided, however, that such jurisdiction shall not affect the superior  
 557 court's exclusive jurisdiction to terminate the legal parent-child relationship as set forth  
 558 in Chapters 6 through 9 of Title 19;

559 (E) For emancipation brought pursuant to the provisions of Article 10 of this chapter;

560 (F) Under Article 8 of this chapter, relating to prior notice to a parent, guardian, or  
 561 legal custodian relative to an unemancipated minor's decision to seek an abortion; or

562 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1,  
563 relating to court orders requiring that a parent, guardian, or legal custodian attend a  
564 conference or participate in programs or treatment to improve a student's behavior.

565 15-11-11.

566 The juvenile court shall have concurrent jurisdiction to hear:

567 (1) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child  
568 alleged to be dependent;

569 (2) Any legitimation petition transferred to the court by proper order of the superior  
570 court;

571 (3) The issue of custody and support when the issue is transferred by proper order of the  
572 superior court; provided, however, that if a demand for a jury trial as to support has been  
573 properly filed by either parent, then the case shall be transferred to superior court for the  
574 jury trial; and

575 (4) Any petition for the establishment or termination of a temporary guardianship  
576 transferred to the court by proper order of the probate court.

577 15-11-12.

578 (a) Nothing in this chapter shall be construed to prevent a child from being adjudicated  
579 both a dependent child and a delinquent child or both a dependent child and a child in need  
580 of services if there exists a factual basis for such a finding.

581 (b) If a child alleged or adjudicated to be a delinquent child or a child in need of services  
582 is also alleged or adjudicated to be a dependent child, dependency proceedings may be  
583 consolidated with delinquency or child in need of services proceedings to the extent  
584 consistent with due process of law as provided in Articles 3, 6, and 7 of this chapter.

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

588 15-11-13.

589 The court shall have jurisdiction to appoint a guardian of the person of any child in any  
590 proceeding authorized by this chapter. Any such appointment shall be made pursuant to  
591 the same requirements of notice and hearing as are provided for appointments of guardians  
592 of the persons of any child by the probate court. In the event a conservator for a child's  
593 property needs to be appointed, the court shall refer that matter to the probate court.

594 15-11-14.

595 (a) The court shall hold a hearing within 30 days of receipt of a case transferred from the  
 596 probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code  
 597 Section 29-2-8.

598 (b) After notice and hearing, the court may make one of the following orders:

599 (1) That the temporary guardianship be established or continued if the court determines  
 600 that the temporary guardianship is in the best interests of a child. The order shall  
 601 thereafter be subject to modification only as provided in Code Section 15-11-32; or

602 (2) That the temporary guardianship be terminated if the court determines it is in the best  
 603 interests of a child. A child shall be returned to his or her parent unless the court  
 604 determines that there is probable cause to believe that he or she will be abused, neglected,  
 605 or abandoned in the custody of his or her parent.

606 (c) A case shall proceed as a dependency matter pursuant to the provisions of Article 3 of  
 607 this chapter if, after notice and hearing, the court determines:

608 (1) That it is in the best interests of a child that the temporary guardianship not be  
 609 established or that the temporary guardianship be terminated but there is probable cause  
 610 to believe that he or she will be abused, neglected, or abandoned if returned to his or her  
 611 parent; or

612 (2) That it is in the best interests of a child that the temporary guardianship be continued  
 613 over the parent's objection.

614 (d) The court may refer to DFCS for further investigation a case transferred from probate  
 615 court.

616 15-11-15.

617 (a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of  
 618 a child, a superior court may transfer the question of the determination of custody, support,  
 619 or custody and support to the juvenile court either for investigation and a report back to the  
 620 superior court or for investigation and determination.

621 (b) If the referral is for investigation and determination, then the juvenile court shall  
 622 proceed to handle the matter in the same manner as though the action originated under this  
 623 chapter in compliance with the order of the superior court, except that the parties shall not  
 624 be entitled to obtain an appointed attorney through the juvenile court.

625 (c) At any time prior to the determination of any such question, the juvenile court may  
 626 transfer the jurisdiction of the question back to the referring superior court.

627 15-11-16.

628 (a) A proceeding under this chapter may be commenced:

629 (1) By an order of transfer of a case from another court as provided in Code Section  
630 15-11-11 or 15-11-567, subsection (f) of Code Section 29-2-6, or subsection (b) of Code  
631 Section 29-2-8;

632 (2) By the summons, notice to appear, or other citation in a proceeding charging a  
633 juvenile traffic offense or a violation of the laws, rules, and regulations governing the  
634 Department of Natural Resources Game and Fish Division; or

635 (3) By the filing of a petition for legitimation under Code Section 15-11-11, or in other  
636 cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6, 7, 9, and 11  
637 of this chapter.

638 (b) The petition and all other documents in the proceeding shall be entitled 'In the interest  
639 of \_\_\_\_\_, a child,' except upon appeal.

640 (c) On appeal, the anonymity of a child, and where appropriate, a victim or witness who  
641 is under the age of 18 years, shall be preserved by appropriate use of a child's, victim's, or  
642 witness's initials as appropriate.

643 15-11-17.

644 (a) All hearings under this chapter shall be conducted by the court without a jury. Any  
645 hearing may be adjourned from time to time within the discretion of the court.

646 (b) Except as otherwise provided, all hearings shall be conducted in accordance with  
647 Title 24.

648 (c) Proceedings shall be recorded by stenographic notes or by electronic, mechanical, or  
649 other appropriate means capable of accurately capturing a full and complete record of all  
650 words spoken during the proceedings.

651 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the  
652 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in  
653 connection with any proceeding under this chapter in any county within the judicial circuit.  
654 When a superior court judge sits as a juvenile court judge, hearings in connection with any  
655 proceeding under this chapter may be heard before such judge in any county within the  
656 judicial circuit over which the judge presides.

657 15-11-18.

658 Upon application of a party, the court, or any authorized officer of the court, the clerk of  
659 the court shall issue subpoenas in accordance with the provisions of Title 24 requiring  
660 attendance and testimony of witnesses and production of evidence at any hearing under this  
661 chapter. A delinquency proceeding conducted in this state shall be considered a criminal  
662 prosecution insofar as the applicability of Article 4 of Chapter 13 of Title 24.

663 15-11-19.

664 (a) A party has the right to be present, to be heard, to present evidence material to the  
665 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and  
666 to appeal the orders of the court; provided, however, that the court shall retain the  
667 discretion to exclude a child from any part or parts of any proceeding under Article 3 of  
668 this chapter if the court determines that it is not in such child's best interests to be present.  
669 An attorney for an excluded child shall not be excluded from the proceedings.

670 (b) A person afforded rights under this chapter shall be advised of such rights at that  
671 person's first appearance before the court.

672 15-11-20.

673 (a) At any time during a proceeding under this chapter, the court may refer a case to  
674 mediation.

675 (b) When referring a case to mediation, the court shall take into consideration the  
676 guidelines from the Georgia Commission of Dispute Resolution for mediating cases  
677 involving domestic violence or family violence.

678 (c) A referral order shall recite that while the parties shall attend a scheduled mediation  
679 session and shall attempt to mediate in good faith, such parties shall not be required to  
680 reach an agreement.

681 (d) Victims in a delinquency case referred to mediation may attend and participate in such  
682 mediation, but shall not be required to do so as a condition of such case being heard by the  
683 juvenile court.

684 15-11-21.

685 (a) Once an order referring a case to mediation has been signed, the court shall appoint a  
686 mediator from a list of court approved mediators who are registered with the Georgia  
687 Office of Dispute Resolution to mediate juvenile court cases.

688 (b) The court shall appoint a qualified mediator within five days of signing the order  
689 referring the case to mediation.

690 15-11-22.

691 (a) The parties shall sign and date a written agreement to mediate. The agreement to  
692 mediate shall identify the controversies between the parties, affirm the parties' intent to  
693 resolve such controversies through mediation, and specify the circumstances under which  
694 mediation may continue. The agreement to mediate shall specify the confidentiality  
695 requirements of mediation and the exceptions to confidentiality in mediation as such are

696 set forth in the Supreme Court of Georgia Alternative Dispute Resolution Rules and  
 697 appendices.

698 (b) A mediator shall not knowingly assist the parties in reaching an agreement which  
 699 would be unenforceable for reasons such as fraud, duress, the absence of bargaining ability,  
 700 unconscionability, or lack of court jurisdiction.

701 (c) Prior to the parties signing an agreement to mediate, the mediator shall advise the  
 702 parties that each of them may obtain review by an attorney of any agreement reached as a  
 703 result of the mediation.

704 (d) The mediator shall at all times be impartial.

705 15-11-23.

706 (a) Upon issuing a referral to mediation the court may stay the proceeding.

707 (b) Mediation shall occur as soon as practicable and be scheduled within 30 days of the  
 708 order referring the matter to mediation unless the time frame is extended by the court.

709 (c) The court may extend the timeline for scheduling a mediation for an additional 30 days.

710 15-11-24.

711 (a) Either party in a mediation may withdraw from or terminate further participation in  
 712 mediation at any time.

713 (b) A mediator shall terminate mediation when:

714 (1) The mediator concludes that the participants are unable or unwilling to participate  
 715 meaningfully in the process;

716 (2) The mediator concludes that a party lacks the capacity to perceive and assert his or  
 717 her own interests to the degree that a fair agreement cannot be reached;

718 (3) The mediator concludes that an agreement is unlikely; or

719 (4) The mediator concludes that a party is a danger to himself or herself or others.

720 15-11-25.

721 (a) All mediation agreements shall be presented to the juvenile court judge for approval.

722 (b) The mediation agreement shall be made an order of the court unless, after further  
 723 hearing, the court determines by clear and convincing evidence that the agreement is not  
 724 in the best interests of the child.

725 15-11-26.

726 Whenever a best interests determination is required, the court shall consider and evaluate  
 727 all of the factors affecting the best interests of the child in the context of such child's age  
 728 and developmental needs. Such factors shall include:

- 729 (1) The physical safety and welfare of such child, including food, shelter, health, and  
730 clothing;
- 731 (2) The love, affection, bonding, and emotional ties existing between such child and each  
732 parent or person available to care for such child;
- 733 (3) The love, affection, bonding, and emotional ties existing between such child and his  
734 or her siblings, half siblings, and stepsiblings and the residence of such other children;
- 735 (4) Such child's need for permanence, including such child's need for stability and  
736 continuity of relationships with his or her parent, siblings, other relatives, and any other  
737 person who has provided significant care to such child;
- 738 (5) Such child's sense of attachments, including his or her sense of security and  
739 familiarity, and continuity of affection for such child;
- 740 (6) The capacity and disposition of each parent or person available to care for such child  
741 to give him or her love, affection, and guidance and to continue the education and rearing  
742 of such child;
- 743 (7) The home environment of each parent or person available to care for such child  
744 considering the promotion of such child's nurturance and safety rather than superficial or  
745 material factors;
- 746 (8) The stability of the family unit and the presence or absence of support systems within  
747 the community to benefit such child;
- 748 (9) The mental and physical health of all individuals involved;
- 749 (10) The home, school, and community record and history of such child, as well as any  
750 health or educational special needs of such child;
- 751 (11) Such child's community ties, including church, school, and friends;
- 752 (12) Such child's background and ties, including familial, cultural, and religious;
- 753 (13) The least disruptive placement alternative for such child;
- 754 (14) The uniqueness of every family and child;
- 755 (15) The risks attendant to entering and being in substitute care;
- 756 (16) Such child's wishes and long-term goals;
- 757 (17) The preferences of the persons available to care for such child;
- 758 (18) Any evidence of family violence, substance abuse, criminal history, or sexual,  
759 mental, or physical child abuse in any current, past, or considered home for such child;
- 760 (19) Any recommendation by a court appointed custody evaluator or guardian ad litem;  
761 and
- 762 (20) Any other factors considered by the court to be relevant and proper to its  
763 determination.

764 15-11-27.

765 During the pendency of any proceeding under this chapter, the court may order:

766 (1) A child to be examined by outside parties or private providers at a suitable place by  
 767 a physician or psychologist; provided, however, that orders to perform an evaluation shall  
 768 not be imposed upon any state agency or county government unless such state agency or  
 769 county government has funds available for such evaluation; and

770 (2) Medical or surgical treatment of a child suffering from a serious physical condition  
 771 or illness which, in the opinion of a licensed physician, requires prompt treatment, even  
 772 if the parent, guardian, or legal custodian has not been given notice of a hearing, is not  
 773 available, or without good cause informs the court of his or her refusal to consent to the  
 774 treatment.

775 15-11-28.

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

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

790 15-11-29.

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

796 (1) To stay away from a person's home or a child;

797 (2) To permit a parent to visit his or her child at stated periods;

798 (3) To abstain from offensive conduct against a child, his or her parent, or any person to  
 799 whom custody of such child is awarded;

800 (4) To give proper attention to the care of his or her home;

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

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

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

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

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

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

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

819 15-11-30.

820 A legal custodian has the right to physical custody of a child, the right to determine the  
 821 nature of the care and treatment of such child, including ordinary medical care, and the  
 822 right and duty to provide for the care, protection, training, and education and the physical,  
 823 mental, and moral welfare of such child, subject to the conditions and limitations of the  
 824 order and to the remaining rights and duties of such child's parent or guardian.

825 15-11-31.

826 (a) In addition to all other inherent powers of the court to enforce its lawful orders, the  
 827 court may punish an adult for contempt of court by imprisonment for not more than 20  
 828 days or a fine not to exceed \$1,000.00 for willfully disobeying an order of the court or for  
 829 obstructing or interfering with the proceedings of the court or the enforcement of its orders.

830 (b) The court shall restrict and limit the use of contempt powers with respect to  
 831 commitment of a child to a secure residential facility or nonsecure residential facility and

832 in no event shall a child solely alleged or adjudicated to be a dependent child be placed in  
 833 a secure residential facility or nonsecure residential facility.

834 (c) A child may be placed in a secure residential facility or nonsecure residential facility  
 835 for not more than 72 hours if:

836 (1) He or she is found in contempt of court; and

837 (2) Less restrictive alternatives have been considered and are unavailable or  
 838 inappropriate or if such child has already been ordered to serve a less restrictive  
 839 alternative sanction but failed to comply with the sanction.

840 (d) In addition or as an alternative to the punishment provided in subsection (a) of this  
 841 Code section, after notice and opportunity to be heard, the court may impose any or all of  
 842 the following sanctions when a parent, guardian, or legal custodian other than DJJ or DFCS  
 843 willfully violates any order issued by the court directed to him or her:

844 (1) Require a child's parent, guardian, or legal custodian to make restitution as provided  
 845 in Code Section 17-14-5;

846 (2) Reimburse the state for the costs of detention, treatment, or rehabilitation of a child;

847 (3) Require a child's parent, guardian, or legal custodian to participate in a court  
 848 approved educational or counseling program designed to contribute to the ability to  
 849 provide proper parental care and supervision of such child, including, but not limited to,  
 850 parenting classes; or

851 (4) Require a child's parent, guardian, or legal custodian to enter into a contract or plan  
 852 as a part of the disposition of any charges against such child so as to provide for the  
 853 supervision and control of such child by his or her parent, guardian, or legal custodian  
 854 and reunification with such child.

855 15-11-32.

856 (a) An order of the court shall be set aside if:

857 (1) It appears that it was obtained by fraud or mistake sufficient therefor in a civil action;

858 (2) The court lacked jurisdiction over a necessary party or the subject matter; or

859 (3) Newly discovered evidence so requires.

860 (b) An order of the court may also be changed, modified, or vacated on the ground that  
 861 changed circumstances so require in the best interests of a child except an order of  
 862 dismissal following a contested adjudicatory hearing.

863 (c) Except as otherwise provided in Code Section 15-11-602, an order committing a child  
 864 to DJJ may only be modified after such child has been transferred to DJJ custody upon  
 865 motion of DJJ.

866 (d) An order of adjudication of delinquency by a court may be modified or vacated if the  
 867 child was adjudicated for a delinquent act for a sexual crime as defined in Code Section  
 868 16-3-6 and such crime resulted from the child being:

869 (1) Trafficked for sexual servitude in violation of Code Section 16-5-46; or

870 (2) A victim of sexual exploitation as defined in Code Section 49-5-40.

871 (e) Any party to the proceeding, the probation officer, or any other person having  
 872 supervision or legal custody of or an interest in a child may petition the court for the relief  
 873 provided in this Code section. Such petition shall set forth in clear and concise language  
 874 the grounds upon which the relief is requested.

875 (f) After a petition seeking relief under this Code section is filed, the court shall fix a time  
 876 for hearing and shall cause notice to be served on the parties to the proceeding or those  
 877 affected by the relief sought. After the hearing, the court shall deny or grant relief as the  
 878 evidence warrants.

879 15-11-33.

880 (a) Whenever an order of disposition incorporates a reunification plan and the residence  
 881 of the parent is not in the county of the court with jurisdiction or the residence of the parent  
 882 changes to a county other than the county of the court with jurisdiction, the court may  
 883 transfer jurisdiction to the juvenile court of the residence of the parent to whom the  
 884 reunification plan is directed.

885 (b) Within 30 days of the filing of the transfer order, the transferring court shall provide  
 886 the receiving court with certified copies of the adjudication order, the order of disposition,  
 887 the order of transfer, the case plan, and any other court documents deemed necessary by  
 888 the transferring court to enable the receiving court to assume jurisdiction over the matter.

889 (c) The transferring court shall retain jurisdiction until the receiving court acknowledges  
 890 acceptance of the transfer.

891 (d) Compliance with this Code section shall terminate jurisdiction in the transferring court  
 892 and confer jurisdiction in the receiving court.

893 15-11-34.

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

897 15-11-35.

898 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of  
 899 Appeals or the Supreme Court in the same manner as appeals from the superior court.

900 However, no such judgment or order shall be superseded except in the discretion of the trial  
901 court; rather, the judgment or order of the court shall stand until reversed or modified by  
902 the reviewing court.

903 15-11-36.

904 (a) The following expenses shall be a charge upon the funds of the county upon  
905 certification thereof by the court:

906 (1) The cost of medical and other examinations and treatment of a child ordered by the  
907 court;

908 (2) The cost of care and support of a child committed by the court to the legal custody  
909 of an individual or a public or private agency other than DJJ, but the court may order  
910 supplemental payments, if such are necessary or desirable for services;

911 (3) Reasonable compensation for services and related expenses of an attorney appointed  
912 by the court, when appointed by the court to represent a child and when appointed by the  
913 court to conduct the proceedings;

914 (4) Reasonable compensation for a guardian ad litem;

915 (5) The expense of service of summons, notices, and subpoenas; travel expenses of  
916 witnesses; transportation, subsistence, and detention of a child for juvenile court  
917 proceedings or superior court proceedings when a child is prosecuted in superior court  
918 pursuant to Code Section 15-11-560; and other like expenses incurred in the proceedings  
919 under this chapter; and

920 (6) The cost of counseling and counsel and advice required or provided under the  
921 provisions of Code Section 15-11-212 or 15-11-601.

922 (b) The court shall determine whether the expenses shall be a charge upon the funds of the  
923 county and certify such expenses to the county governing authority within 120 days from  
924 the date such expenses were submitted to the court for certification. If the court has not  
925 made such certification within 120 days, the court shall be deemed to have denied  
926 certification.

927 (c) If, after due notice to the parent or other person legally obligated to care for and  
928 support a child and after affording such person an opportunity to be heard, the court finds  
929 that such person is financially able to pay all or part of the costs and expenses outlined in  
930 subsection (a) of this Code section, the court may order such person to pay the same and  
931 prescribe the manner of payment. In addition, the court may order payment from a child's  
932 parent or other legally obligated person or entity to reimburse all or part of the costs and  
933 expenses of the department or DJJ for treatment, care, and support of a child. Unless  
934 otherwise ordered, payment shall be made to the clerk of the court for remittance to the

935 person or agency, including the department or DJJ, to whom compensation is due or, if the  
 936 costs and expenses have been paid by the county, to the appropriate officer of the county.

937 15-11-37.

938 (a) The court may collect supervision fees from those who are placed under the court's  
 939 formal or informal supervision in order that the court may use those fees to expand the  
 940 provision of the following types of ancillary services:

941 (1) Housing in nonsecure residential facilities;

942 (2) Educational services, tutorial services, or both;

943 (3) Counseling and diagnostic testing;

944 (4) Mediation;

945 (5) Transportation to and from court ordered services;

946 (6) Truancy intervention services;

947 (7) Restitution programs;

948 (8) Job development or work experience programs;

949 (9) Community services; and

950 (10) Any other additional programs or services needed to meet the best interests,  
 951 development, and rehabilitation of a child.

952 (b)(1) The juvenile court may order each delinquent child or child in need of services  
 953 who receives supervision to pay to the clerk of the court:

954 (A) An initial court supervision user's fee of not less than \$10.00 nor more than  
 955 \$200.00; and

956 (B) A court supervision user's fee of not less than \$2.00 nor more than \$30.00 for each  
 957 month that a child receives supervision.

958 (2) A child and his or her parent, guardian, or legal custodian may be jointly and  
 959 severally liable for the payment of fees set forth in paragraph (1) of this subsection and  
 960 shall be subject to the enforcement procedure in subsection (c) of Code Section 15-11-36.

961 The judge shall provide that any such fees shall be imposed on such terms and conditions  
 962 as shall assure that the funds for the payment are from moneys earned by such child. All  
 963 moneys collected by the clerk under this subsection shall be transferred to the county  
 964 treasurer, or such other county official or employee who performs duties previously  
 965 performed by the treasurer, who shall deposit the moneys into a county supplemental  
 966 juvenile services fund. The governing authority of the county shall appropriate moneys  
 967 from the county supplemental juvenile services fund to the juvenile court for the court's  
 968 discretionary use in providing community services described in subsection (a) of this  
 969 Code section to child offenders. These funds shall be administered by the county and the  
 970 court may draw upon them by submitting invoices to the county. The county

971 supplemental juvenile services fund may be used only for these services. Any moneys  
972 remaining in the fund at the end of the county fiscal year shall not revert to any other fund  
973 but shall continue in the county supplemental juvenile services fund. The county  
974 supplemental juvenile services fund may not be used to replace other funding of services.

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

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

979 15-11-38.

980 (a) Any court may order the establishment of a community based risk reduction program,  
981 within the geographical jurisdiction of the court, for the purpose of utilizing available  
982 community resources in assessment and intervention in cases of delinquency, dependency,  
983 or children in need of services so long as the court determines that sufficient funds are  
984 available for such programs. Subject to the procedures, requirements, and supervision  
985 established in the order creating such program, any individual and any public or private  
986 agency or entity may participate in the program.

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

995 (c) As part of an early intervention program, the court may enter into protocol agreements  
996 with school systems within the court's jurisdiction, the county department of family and  
997 children services, the county department of health, DJJ, any state or local department or  
998 agency, any mental health agency or institution, local physicians or health care providers,  
999 licensed counselors and social workers, and any other social service, charitable, or other  
1000 entity or any other agency or individual providing educational or treatment services to  
1001 families and children within the jurisdiction of the court. Such protocol agreements shall  
1002 authorize the exchange of confidential information in the same manner and subject to the  
1003 same restrictions, conditions, and penalties as provided in Code Section 15-11-40.

1004 (d) When any agency or entity participating in a protocol agreement identifies a child who  
1005 is at risk of becoming a delinquent child, dependent child, or child in need of services, the  
1006 agency or entity shall refer the case to a multiagency staffing panel. The panel shall

1007 develop a multiagency intervention plan for such child. Such child or his or her parent, or  
1008 both, may be present during any review of such child's case by the panel. A child's parent,  
1009 guardian, or legal custodian shall be notified of the intervention plan by the agency making  
1010 the referral or by a person or entity designated by the panel to administer the program. The  
1011 staff of the court, other than the judge, shall work with the other agencies involved to  
1012 educate a child's parent, guardian, or legal custodian and such child on the importance of  
1013 following the intervention plan and on the consequences if anyone is referred to the court.  
1014 If an intervention plan is developed for a child and his or her parent, guardian, or legal  
1015 custodian consents to such plan, the failure to comply with the plan or any portion thereof  
1016 may constitute the basis for a referral to DFCS.

1017 15-11-39.

1018 (a) In any jurisdiction within which a risk reduction program has been established, when  
1019 a child comes before the court for disposition, the court may order that a risk assessment  
1020 or risk and needs assessment, as defined in Code Section 49-4A-1, be made of such child  
1021 and the circumstances resulting in such child being before the court.

1022 (b) If the results of a risk assessment or risk and needs assessment, as defined in Code  
1023 Section 49-4A-1, demonstrates a need for a case plan, the court may order that a case plan  
1024 be developed by a panel representing community agencies as authorized by the court. A  
1025 case plan shall contain the proposed actions and alternatives for the proper and efficient use  
1026 of available community resources to assist a child.

1027 (c) A case plan shall be served on a child and his or her parent, guardian, or legal  
1028 custodian. A case plan shall also include a cover letter which contains the following  
1029 information:

1030 (1) Sources to explain the process, procedures, and penalties for not responding to the  
1031 court order in the prescribed time frame; and

1032 (2) The deadline for responding to the court order and stating objections to the case plan  
1033 or any portion thereof is ten days from the date of service.

1034 (d) If no objection is made or if a child and his or her parent, guardian, or legal custodian  
1035 consents to the case plan, the case plan shall be incorporated into and made a part of the  
1036 disposition order entered in the case by entry of a supplemental order. The case plan may  
1037 be modified by the court at any time such child is under the jurisdiction of the court.

1038 (e) If a child or his or her parent, guardian, or legal custodian objects to the case plan, the  
1039 court shall conduct a hearing. The court may decline to adopt the case plan or may confirm  
1040 or modify the case plan. In implementing a case plan, the court shall have available all of  
1041 the protective powers set forth in Code Section 15-11-29, without the necessity of a show  
1042 cause hearing, unless objection is made to the case plan.

1043 15-11-40.

1044 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation  
1045 adopted by any department, board, or agency of the state to the contrary, the court and any  
1046 individual, public or private agency, or other entity participating in a community based risk  
1047 reduction program may exchange, as necessary, information, medical records, school  
1048 records, immigration records, records of adjudication, treatment records, and any other  
1049 records or information which may aid in the assessment of and intervention with the  
1050 children and families in such program if such exchange of information is ordered by the  
1051 court or consented to by the parties. Such information shall be used by such individuals  
1052 and agencies only for the purposes provided in this chapter and as authorized by the court  
1053 for the purpose of implementing the case plan and for the purposes permitted under each  
1054 agency's own rules and regulations. Such information shall not be released to any other  
1055 individual or agency except as may be necessary to effect the appropriate treatment or  
1056 intervention as provided in the case plan. Such information shall otherwise remain  
1057 confidential as required by state and federal law and the court may punish any violations  
1058 of confidentiality as contempt of court.

1059 (b) Any person who authorizes or permits any unauthorized person or agency to have  
1060 access to confidential records or reports of child abuse shall be guilty of a misdemeanor.  
1061 Any person who knowingly and under false pretenses obtains or attempts to obtain  
1062 confidential records or reports of child abuse or information contained therein shall be  
1063 guilty of a misdemeanor.

1064 (c) Confidential records or reports of child abuse and information obtained from such  
1065 records may not be made a part of any record which is open to the public except that a  
1066 prosecuting attorney may use and make public that record or information in the course of  
1067 any criminal prosecution for any offense which constitutes or results from child abuse.

1068 (d) This Code section shall not abridge the provisions relating to confidentiality of patient  
1069 or client records and shall not serve to destroy or in any way abridge the confidential or  
1070 privileged character thereof.

1071 15-11-41.

1072 (a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal  
1073 or state privacy laws may require the following before sharing confidential information:

1074 (1) For release of child abuse records by the department, a subpoena and subsequent  
1075 order of the court requiring the release of such information in accordance with Code  
1076 Section 49-5-41;

1077 (2) For release of information relating to diagnosis, prognosis, or treatment of drug and  
1078 alcohol abuse:

- 1079 (A) If the person is 18 or has been emancipated, consent from the person to whom such  
 1080 information relates;
- 1081 (B) If the person is under the age of 18 years and has not been emancipated, valid  
 1082 consent from such person's parent, guardian, or legal custodian or consent by a parent,  
 1083 guardian, or legal custodian to a confidentiality agreement between the health care  
 1084 provider and the unemancipated minor; provided, however, that consent from an  
 1085 unemancipated minor shall be sufficient for the release of such information if the  
 1086 unemancipated minor is allowed by law to consent to the health care service to which  
 1087 the records relate without the consent of a parent, guardian, or legal custodian and has  
 1088 not designated anyone as a personal representative; or
- 1089 (C) A subpoena requiring the release of such information and protective order of the  
 1090 court regarding the release of such information; and
- 1091 (3) For release of confidential health, mental health, or education records:
- 1092 (A) If the person is 18 or has been emancipated, consent from the person to whom such  
 1093 information relates;
- 1094 (B) If the person is under the age of 18 years and has not been emancipated, valid  
 1095 consent from such person's parent, guardian, or legal custodian or consent by a parent,  
 1096 guardian, or legal custodian to a confidentiality agreement between the health care  
 1097 provider and the unemancipated minor; provided, however, that consent from an  
 1098 unemancipated minor shall be sufficient for the release of such information if the  
 1099 unemancipated minor is allowed by law to consent to the health care service to which  
 1100 the records relate without the consent of a parent, guardian, or legal custodian and has  
 1101 not designated anyone as a personal representative;
- 1102 (C) A subpoena requiring the release of such information; or
- 1103 (D) An order of the court requiring the release of such information.
- 1104 (b) In issuing an order for the release of information under this Code section, the court  
 1105 may:
- 1106 (1) Include protections against further disclosure of the information;  
 1107 (2) Limit the purposes for which the information may be used; and  
 1108 (3) Require records to be redacted so that only relevant information is shared.
- 1109 (c) Nothing in this Code section shall be deemed to replace the responsibility of entities  
 1110 governed by federal and state privacy laws to comply with such laws.
- 1111 (d) Nothing in this Code section shall be construed as barring or limiting the release of  
 1112 confidential information referred to in this Code section pursuant to a search warrant.

ARTICLE 2

1113

1114 15-11-50.1115 (a) There is created a juvenile court in every county in the state.1116 (b) Except where election is provided by local law, the judge or a majority of the judges1117 of the superior court in each circuit in the state may appoint one or more qualified persons1118 as judge of the juvenile courts of the circuit. Such superior court judge or judges shall1119 establish the total number of circuit-wide juvenile court judges and shall establish whether1120 the judge or judges shall be full time or part time, or a combination of full time and part1121 time. Each circuit-wide judge appointed shall have the authority to act as judge of each1122 juvenile court in each county of the circuit.1123 (c) If no person is appointed as a juvenile court judge for a circuit, then a superior court1124 judge of the circuit shall as part of the duties of the superior court judge assume the duties1125 of the juvenile court judge in all counties in the circuit in which a separate juvenile court1126 judgeship has not been established.1127 (d) All juvenile court judgeships established on or before October 1, 2000, and their1128 methods of compensation, selection, and operation shall continue until such time as one or1129 more circuit-wide juvenile court judges are appointed. However, in any circuit where a1130 superior court judge assumes the duties of the juvenile court judge, such circuit shall not1131 be entitled to the state funds provided for in Code Section 15-11-52.1132 (e) When one or more circuit-wide juvenile court judges are appointed or elected, any1133 juvenile court judge in office at that time shall be authorized to fulfill his or her term of1134 office. The jurisdiction of each judge shall be circuit wide.1135 (f) After the initial appointments and prior to any subsequent appointment or1136 reappointment of any part-time or full-time juvenile court judge, the judge or judges1137 responsible for making the appointment shall publish notice of the vacancy of the juvenile1138 court judgeship once a month for three months prior to such appointment or reappointment.1139 Such notice shall be published in the official legal organ of each of the counties in the1140 circuit where the juvenile court judge has venue. The expense of such publication shall be1141 paid by the county governing authority in the county where such notice is published.1142 (g) In the event that more than one juvenile court judge is appointed, one judge shall be1143 designated presiding judge.1144 (h) In any case in which action under this Code section is to be taken by a superior court1145 judge of the circuit, such action shall be taken as follows:1146 (1) Where there are one or two superior court judges, such action shall be taken by the1147 chief judge of the circuit; and

1148 (2) Where there are more than two superior court judges, such action shall be taken by  
 1149 a majority vote of the judges of the circuit.

1150 15-11-51.

1151 (a) No person shall be judge of the juvenile court unless, at the time of his or her  
 1152 appointment, he or she has attained the age of 30 years, has been a citizen of this state for  
 1153 three years, is a member of the State Bar of Georgia, and has practiced law for five years.

1154 (b) A juvenile court judge shall be eligible for reappointment or reelection.

1155 15-11-52.

1156 (a) Each appointed juvenile court judge shall serve for a term of four years.

1157 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the  
 1158 superior court with the approval of the governing authority or governing authorities of the  
 1159 county or counties for which the juvenile court judge is appointed.

1160 (c) Out of funds appropriated to the judicial branch of government, the state shall  
 1161 contribute toward the salary of the judges on a per circuit basis in the following amounts:

1162 (1) Each circuit with one or more juvenile court judges who are not superior court judges  
 1163 assuming the duties of juvenile court judges shall receive a state base grant of  
 1164 \$85,000.00;

1165 (2) In addition to this base amount, each circuit which has more than four superior court  
 1166 judges shall be eligible for additional state grants. For each superior court judge who  
 1167 exceeds the base of four judges, the circuit shall be eligible for an additional grant in an  
 1168 amount equal to one-fourth of the base amount of the state grant;

1169 (3) In circuits where the superior court judges elect to use the state grant for one or more  
 1170 part-time judges, the amount of the state grant shall be as follows:

1171 (A) For each part-time judge who works one day weekly . . . . . \$17,000.00

1172 (B) For each part-time judge who works two days weekly . . . . . 34,000.00

1173 (C) For each part-time judge who works three days weekly . . . . . 51,000.00

1174 (D) For each part-time judge who works four days weekly . . . . . 68,000.00;

1175 provided, however, that a grant for one or more part-time judges shall not exceed the  
 1176 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this  
 1177 subsection; and

1178 (4) All state grants provided by this subsection shall be spent solely on salaries for  
 1179 juvenile court judges and shall not be used for any other purposes.

1180 15-11-53.

1181 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of  
 1182 law outside his or her role as a juvenile court judge.

1183 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or  
 1184 indirectly in the practice of law in his or her own name or in the name of another as a  
 1185 partner in any manner in any case, proceeding, or matter of any kind in the court to which  
 1186 he or she is assigned or in any other court in any case, proceeding, or any other matters of  
 1187 which it has pending jurisdiction or has had jurisdiction.

1188 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice  
 1189 or counsel to any person on any matter of any kind whatsoever which has arisen directly  
 1190 or indirectly in court, except such advice or counsel as a judge is called upon to give while  
 1191 performing the duties of a juvenile court judge.

1192 15-11-54.

1193 (a) Each juvenile court shall be assigned and attached to the superior court of the county  
 1194 for administrative purposes.

1195 (b) The governing authority of the county of residence of each juvenile court judge shall  
 1196 offer the juvenile court judge insurance benefits and any other benefits except retirement  
 1197 or pension benefits equivalent to those offered to employees of the county, with a right to  
 1198 contribution from other counties in the circuit for a pro rata contribution toward the costs  
 1199 of such benefits, based on county population. Counties shall continue to provide  
 1200 membership in retirement plans available to county employees for any juvenile court judge  
 1201 in office before July 1, 1998, who did not become a member of the Georgia Judicial  
 1202 Retirement System provided by Chapter 23 of Title 47.

1203 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the  
 1204 court are declared to be an expense of the court and payable out of the county treasury with  
 1205 the approval of the governing authority or governing authorities of the county or counties  
 1206 for which the juvenile court judge is appointed.

1207 15-11-55.

1208 (a) To the extent that the provisions of this article conflict with a local constitutional  
 1209 amendment authorizing the election of a juvenile court judge and with the provisions of a  
 1210 local Act authorized by such local constitutional amendment to provide for the term of  
 1211 office, vacancies in office, qualifications, compensation, and full-time or part-time status  
 1212 of a juvenile court judge or judges, the provisions of such local constitutional amendment  
 1213 and such local Act shall govern.

1214 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit  
 1215 encompassing a juvenile court governed by the provisions of a local constitutional  
 1216 amendment and a local Act in the same manner as other circuits, except that, in any circuit  
 1217 with one or more elected juvenile court judges, the elected juvenile court judge who is  
 1218 senior in duration of service as a juvenile court judge shall establish, subject to other  
 1219 applicable provisions of law, the total number of circuit-wide juvenile court judges,  
 1220 whether the judge or judges shall be full time or part time or a combination of full time and  
 1221 part time, and the compensation of any part-time juvenile court judge or judges.

1222 15-11-56.

1223 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold  
 1224 the office of judge of any other class of court of this state.

1225 (b) No person serving as a juvenile court judge after being elected juvenile court judge  
 1226 pursuant to a local law authorized by a constitutional amendment shall at the same time  
 1227 hold the office of judge of any other class of court of this state.

1228 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court  
 1229 judge from sitting by designation as a superior court judge pursuant to Code Section  
 1230 15-1-9.1.

1231 15-11-57.

1232 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the  
 1233 superior court to forward to the Secretary of State and to the Council of Juvenile Court  
 1234 Judges a certified copy of the order of appointment. The order of appointment shall set out  
 1235 the name of the person appointed, the term of office, the effective date of the appointment,  
 1236 the name of the person being succeeded, if any, and whether the office was vacated by  
 1237 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall  
 1238 issue a commission as for superior court judges.

1239 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,  
 1240 the clerk of the juvenile court shall forward a certified copy of the order of appointment to  
 1241 the Council of Juvenile Court Judges.

1242 15-11-58.

1243 (a) All of the judges and associate judges of the courts exercising jurisdiction over children  
 1244 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from  
 1245 among its members a judge to serve as presiding judge and chairperson of the council.

1246 (b) The Council of Juvenile Court Judges:

1247 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

- 1248 (2) May establish general policies for the conduct of courts exercising jurisdiction over  
 1249 children;
- 1250 (3) May promulgate uniform rules and forms governing procedures and practices of the  
 1251 courts;
- 1252 (4) Shall publish in print or electronically an annual report of the work of the courts  
 1253 exercising jurisdiction over children, which shall include statistical and other data on the  
 1254 courts' work and services, research studies the council may make of the problems of  
 1255 children and families dealt with by the courts, and any recommendations for legislation;  
 1256 and
- 1257 (5) Shall be authorized to inspect and copy records of the courts, law enforcement  
 1258 agencies, the department, and DJJ for the purpose of compiling statistical data on  
 1259 children.
- 1260 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge  
 1261 of the council shall appoint a chief administrative and executive officer for the council who  
 1262 shall have the title of director of the Council of Juvenile Court Judges. Under the general  
 1263 supervision of the presiding judge of the council and within the policies established by the  
 1264 council, the director shall:
- 1265 (1) Provide consultation to the courts regarding the administration of court services and  
 1266 the recruitment and training of personnel;
- 1267 (2) Make recommendations to the council for improvement in court services;
- 1268 (3) With the approval of the presiding judge, appoint consultants and necessary clerical  
 1269 personnel to perform the duties assigned to the council and the director;
- 1270 (4) Collect necessary statistics and prepare an annual report of the work of the courts;
- 1271 (5) Promulgate in cooperation with DJJ standard procedures for coordinating DJJ and  
 1272 county juvenile probation services throughout this state; and
- 1273 (6) Perform such other duties as the presiding judge of the council shall specify.
- 1274 15-11-59.
- 1275 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing  
 1276 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile  
 1277 court judges exercising juvenile court jurisdiction and may make provisions relative to such  
 1278 seminars by court rules properly adopted.
- 1279 (b) Seminars shall offer instruction and training in juvenile law and procedure, child  
 1280 development and psychology, sociological theories relative to delinquency and breakdown  
 1281 of the family structure, and such other training and activities as the council may determine  
 1282 would promote the quality of justice in the juvenile court system.

1283 (c) Expenses of administration of seminar programs and actual expenses incurred by the  
1284 judges or associate juvenile court judges in attending such seminars shall be paid from state  
1285 funds appropriated for the council for such purpose, from federal funds available to the  
1286 council for such purpose, or from other sources. Judges and associate juvenile court judges  
1287 shall receive the same expense and travel allowances which members of the General  
1288 Assembly receive for attending meetings of legislative interim committees.

1289 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall  
1290 receive training appropriate to the role and participate in at least 12 hours of continuing  
1291 legal education or continuing judicial education established or approved by the council  
1292 each year and meet such rules as established by the council pertaining to such training.  
1293 Superior court judges may meet this requirement by attending seminars held in conjunction  
1294 with the seminars for superior court judges provided by the Institute of Continuing Judicial  
1295 Education of Georgia. Judges and associate juvenile court judges shall not exercise  
1296 juvenile court jurisdiction unless the council certifies that annual training has been  
1297 accomplished or unless the judge is in the first year of his or her initial appointment;  
1298 provided, however, that the council may in hardship cases extend deadlines for compliance  
1299 with this Code section.

1300 15-11-60.

1301 (a) A judge may appoint one or more persons to serve as associate juvenile court judges  
1302 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge  
1303 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge  
1304 with the approval of the governing authority or governing authorities of the county or  
1305 counties for which the associate juvenile court judge is appointed. The salary of each  
1306 associate juvenile court judge shall be paid from county funds.

1307 (b) Each associate juvenile court judge shall have the same qualifications as required for  
1308 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that  
1309 any person serving as an associate juvenile court judge on July 1, 2007, shall be qualified  
1310 for appointment thereafter to serve as an associate juvenile court judge.

1311 15-11-61.

1312 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as  
1313 associate juvenile court traffic judges on a full-time or part-time basis.

1314 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

1315 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge  
1316 with the approval of the governing authority of the county and shall be paid in equal  
1317 monthly installments from county funds, unless otherwise provided by law.

1318 15-11-62.

1319 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile  
 1320 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia  
 1321 who is resident in the judicial circuit in which the court lies and has practiced law for five  
 1322 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court  
 1323 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the  
 1324 juvenile court is absent or unable to make such appointment, the judge of the superior court  
 1325 of that county may so appoint.

1326 (b) The person appointed shall have the authority to preside in the stead of the disqualified,  
 1327 ill, or absent judge and shall be paid from the county treasury such emolument as the  
 1328 appointing judge shall prescribe; provided, however, that the emolument shall not exceed  
 1329 the compensation received by the regular juvenile court judge for such services.

1330 15-11-63.

1331 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other  
 1332 personnel necessary for the execution of the purposes of this chapter.

1333 (b) The salary, tenure, compensation, and all other conditions of employment of such  
 1334 employees shall be fixed by the judge, with the approval of the governing authority of the  
 1335 county. The salaries of the employees shall be paid out of county funds.

1336 (c) Any employee of the court may be removed for cause by the judge of the court, the  
 1337 reasons therefor to be assigned in writing.

1338 15-11-64.

1339 Each clerk of the juvenile court shall collect the following information for each child in  
 1340 need of services, delinquent child, and child accused of a class A designated felony act or  
 1341 class B designated felony act and provide such information to DJJ as frequently as  
 1342 requested by DJJ:

1343 (1) Name;

1344 (2) Date of birth;

1345 (3) Sex;

1346 (4) Race;

1347 (5) Offense charged;

1348 (6) Location of the offense, including the name of the school if the offense occurred in  
 1349 a school safety zone, as defined in Code Section 16-11-127.1;

1350 (7) The name of the referral source, including the name of the school if the referring  
 1351 source was a school;

1352 (8) Disposition of the case; and

1353 (9) Date of and authority for commitment, if applicable.

1354 15-11-65.

1355 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile  
1356 court shall satisfactorily complete 20 hours of training in the performance of the duties of  
1357 a clerk of the juvenile court within the first 12 months following such appointment or the  
1358 first performance of such duties.

1359 (b) In each year after the initial appointment, any person who is appointed as or is  
1360 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that  
1361 year 12 hours of additional training in the performance of such person's duties as clerk.

1362 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing  
1363 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate  
1364 issued by the institute shall be placed into the minutes of the juvenile court record in the  
1365 county in which such person serves as a clerk of the juvenile court. All reasonable  
1366 expenses of such training including, but not limited to, any tuition fixed by such institution  
1367 shall be paid from county funds by the governing authority of the county for which the  
1368 person serves as a clerk of the juvenile court, unless funding is provided from other  
1369 sources.

1370 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order  
1371 for the regular clerk to attend required training. Such clerk pro tempore shall not be  
1372 required to meet the training requirements for performing the clerk's duties.

1373 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also  
1374 act as clerks of superior courts and who already have mandatory training requirements in  
1375 such capacity.

1376 15-11-66.

1377 (a) The judge may appoint one or more probation and intake officers.

1378 (b) The salaries of the probation and intake officers shall be fixed by the judge with the  
1379 approval of the governing authority of the county or counties for which he or she is  
1380 appointed and shall be payable from county funds.

1381 15-11-67.

1382 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation  
1383 officer:

1384 (1) Shall make investigations, reports, and recommendations to the court as directed by  
1385 this chapter;

1386 (2) Shall supervise and assist a child placed on probation or under the protective  
 1387 supervision or care of such probation officer by order of the court or other authority of  
 1388 law;

1389 (3) May, unless otherwise ordered by the court, determine if a child should be placed on  
 1390 unsupervised probation and, if so, place a child on unsupervised probation;

1391 (4) Shall make appropriate referrals to other private or public agencies of the community  
 1392 if such assistance appears to be needed or desirable;

1393 (5) May take into custody and detain a child who is under the supervision or care of such  
 1394 probation officer if the probation officer has reasonable cause to believe that such child's  
 1395 health or safety or that of another is in imminent danger or that such child may abscond  
 1396 or be removed from the jurisdiction of the court, or when so ordered by the court pursuant  
 1397 to this chapter;

1398 (6) May not conduct accusatory proceedings against a child who is or may be under such  
 1399 probation officer's care or supervision;

1400 (7) Shall perform all other functions designated by this chapter or by order of the court  
 1401 pursuant to this chapter. Any of the functions specified in this Code section may be  
 1402 performed in another state if authorized by the court located in this state and permitted  
 1403 by the laws of the other state; and

1404 (8) Other laws to the contrary notwithstanding, no probation officer shall be liable for  
 1405 the acts of a child not detained or taken into custody when, in the judgment of such  
 1406 officer, such detention or custody is not warranted.

1407 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall  
 1408 maintain sole authority over the duties and responsibilities of all DJJ staff members serving  
 1409 as probation officers.

1410 15-11-68.

1411 (a) A juvenile court intake officer:

1412 (1) Shall receive and examine complaints and charges of delinquency, of dependency,  
 1413 or that a child is a child in need of services for the purpose of considering the  
 1414 commencement of proceedings under this chapter;

1415 (2) Shall make appropriate referrals to other private or public agencies of the community  
 1416 if such assistance appears to be needed or desirable;

1417 (3) Shall compile on a regular basis the case files or a report on those cases that were  
 1418 informally adjusted for review by the judge;

1419 (4) May not conduct accusatory proceedings against a child or draft judicial orders,  
 1420 official charges, or any other document which is required to be drafted by an attorney;

1421 (5) Shall perform all other functions designated by this chapter or by order of the court  
 1422 pursuant to this chapter; and

1423 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no  
 1424 county juvenile court intake officer, or DJJ staff member serving as a juvenile court  
 1425 intake officer, shall be liable for the acts of a child not detained or taken into custody  
 1426 when, in the judgment of such officer, such detention or custody is not warranted.

1427 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall  
 1428 maintain sole authority over the duties and responsibilities of all DJJ staff members serving  
 1429 as juvenile court intake officers.

1430 15-11-69.

1431 (a) The probation and intake services of the juvenile court of each county may be  
 1432 transferred to and become a part of the state-wide juvenile and intake services and be fully  
 1433 funded through DJJ. The probation and intake officers of juvenile courts of those counties  
 1434 whose probation and intake services are transferred pursuant to this Code section shall  
 1435 become DJJ employees on the date of such transfer and on and after that date such  
 1436 employees shall be subject to the salary schedules and other DJJ personnel policies, except  
 1437 that the salaries of such employees shall not be reduced as a result of becoming DJJ  
 1438 employees.

1439 (b) The probation and intake services of the juvenile court of a county may be transferred  
 1440 to DJJ by a local Act of the General Assembly that approves such transfer.

1441 (c) Persons who were probation and intake officers of the juvenile court of a county on  
 1442 June 30, 1996, but who were transferred as probation and intake officers to and became a  
 1443 part of the state-wide juvenile and intake services system fully funded through DJJ before  
 1444 January 1, 1999, shall be covered employees in the classified service as defined in Code  
 1445 Section 45-20-2.

1446 ARTICLE 3

1447 Part 1

1448 15-11-100.

1449 The purpose of this article is:

1450 (1) To assist and protect children whose physical or mental health and welfare is  
 1451 substantially at risk of harm from abuse, neglect, or exploitation and who may be further  
 1452 threatened by the conduct of others by providing for the resolution of dependency  
 1453 proceedings in juvenile court;

- 1454 (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays  
1455 in permanency plans for children;  
1456 (3) To provide the greatest protection as promptly as possible for children; and  
1457 (4) To ensure that the health, safety, and best interests of a child be the paramount  
1458 concern in all dependency proceedings.

1459 15-11-101.

1460 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the  
1461 court for certain medical examinations and evaluations of a child or other children in the  
1462 household.

1463 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court  
1464 may order a physical examination and evaluation of a child or other children in the  
1465 household by a physician. Such order may be granted ex parte.

1466 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after  
1467 a hearing, the court may order a psychological or psychiatric examination and evaluation  
1468 of a child or other children in the household by a psychologist, psychiatrist, or other  
1469 licensed mental health professional.

1470 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after  
1471 a hearing, the court may order a forensic examination and evaluation of a child or other  
1472 children in the household by a psychologist, psychiatrist, or other licensed mental health  
1473 professional.

1474 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after  
1475 a hearing, the court may order a physical, psychological, or psychiatric examination of a  
1476 child's parent, guardian, or legal custodian.

1477 15-11-102.

1478 (a) A preliminary protective hearing shall be held promptly and no later than 72 hours after  
1479 a child is placed in foster care, provided that, if the 72 hour time frame expires on a  
1480 weekend or legal holiday, such hearing shall be held on the next day which is not a  
1481 weekend or legal holiday.

1482 (b) If a child was not taken into protective custody or is released from foster care at a  
1483 preliminary protective hearing, the following time frames apply:

1484 (1) A petition for dependency shall be filed within 30 days of the child's preliminary  
1485 protective hearing;

1486 (2) Summons shall be served at least 72 hours before the dependency adjudication  
1487 hearing;

- 1488 (3) The dependency adjudication hearing shall be held no later than 60 days after the  
1489 filing of a petition for dependency; and
- 1490 (4) If the child's dispositional hearing is not held in conjunction with the dependency  
1491 adjudication hearing, it shall be held and completed within 30 days after the conclusion  
1492 of the dependency adjudication hearing.
- 1493 (c) If a child is not released from foster care at the preliminary protective hearing, the  
1494 following time frames apply:
- 1495 (1) A petition for dependency shall be filed within five days of the child's preliminary  
1496 protective hearing;
- 1497 (2) Summons shall be served at least 72 hours before the dependency adjudication  
1498 hearing;
- 1499 (3) The dependency adjudication hearing shall be held no later than ten days after the  
1500 filing of a petition for dependency;
- 1501 (4) DFCS shall submit to the court its written report within 30 days of the date a child  
1502 who is placed in the custody of DFCS is removed from the home and at each subsequent  
1503 review of the disposition order. If the DFCS report does not contain a plan for  
1504 reunification services, a nonreunification hearing shall be held no later than 30 days from  
1505 the time the report is filed; and
- 1506 (5) If a dispositional hearing is not held in conjunction with the dependency adjudication  
1507 hearing, it shall be held and completed within 30 days after the conclusion of the  
1508 dependency adjudication hearing.
- 1509 (d) An initial periodic review hearing shall be held within 75 days following a child's  
1510 removal from his or her home. An additional periodic review shall be held within four  
1511 months following such initial review.
- 1512 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted  
1513 a written report to the court which does not provide a plan for reunification services or:
- 1514 (1) For children under seven years of age at the time a petition for dependency is filed,  
1515 no later than nine months after such child is considered to have entered foster care,  
1516 whichever comes first. Thereafter a permanency plan hearing shall be held every six  
1517 months while such child continues in DFCS custody or more frequently as deemed  
1518 necessary by the court until the court determines that such child's permanency plan and  
1519 goal have been achieved; or
- 1520 (2) For children seven years of age and older at the time a petition is filed, no later than  
1521 12 months after such child is considered to have entered foster care, whichever comes  
1522 first. Thereafter a permanency plan hearing shall be held every six months while such  
1523 child continues in DFCS custody or more frequently as deemed necessary by the court  
1524 until the court determines that such child's permanency plan and goal have been achieved.

1525 (f) A supplemental order of the court adopting a child's permanency plan shall be entered  
1526 within 30 days after the court has determined that reunification efforts need not be made  
1527 by DFCS.

1528 15-11-103.

1529 (a) A child and any other party to a proceeding under this article shall have the right to an  
1530 attorney at all stages of the proceedings under this article.

1531 (b) The court shall appoint an attorney for an alleged dependent child. The appointment  
1532 shall be made as soon as practicable to ensure adequate representation of such child and,  
1533 in any event, before the first court hearing that may substantially affect the interests of such  
1534 child.

1535 (c) A child's attorney owes to his or her client the duties imposed by the law of this state  
1536 in an attorney-client relationship.

1537 (d) If an attorney has been appointed to represent a child in a prior proceeding under this  
1538 chapter, the court, when possible, shall appoint the same attorney to represent such child  
1539 in any subsequent proceeding.

1540 (e) An attorney appointed to represent a child in a dependency proceeding shall continue  
1541 the representation in any subsequent appeals unless excused by the court.

1542 (f) Neither a child nor a representative of a child may waive a child's right to an attorney  
1543 in a dependency proceeding.

1544 (g) A party other than a child shall be informed of his or her right to an attorney prior to  
1545 any hearing. A party other than a child shall be given an opportunity to:

1546 (1) Obtain and employ an attorney of such party's own choice;

1547 (2) Obtain a court appointed attorney if the court determines that such party is an  
1548 indigent person; or

1549 (3) Waive the right to an attorney.

1550 15-11-104.

1551 (a) The court shall appoint a guardian ad litem for an alleged dependent child.

1552 (b) An attorney for an alleged dependent child may serve as such child's guardian ad litem  
1553 unless or until there is conflict of interest between the attorney's duty to such child as such  
1554 child's attorney and the attorney's considered opinion of such child's best interests as  
1555 guardian ad litem.

1556 (c) A party to the proceeding, the employee or representative of a party to the proceeding,  
1557 or any other individual with a conflict of interest shall not be appointed as guardian ad  
1558 litem.

- 1559 (d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a  
1560 CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.
- 1561 (e) A lay guardian shall not engage in activities which could reasonably be construed as  
1562 the practice of law.
- 1563 (f) Before the appointment as a guardian ad litem, such person shall have received training  
1564 appropriate to the role as guardian ad litem which is administered or approved by the  
1565 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment  
1566 guardian ad litem training shall be satisfied within the attorney's existing continuing legal  
1567 education obligations and shall not require the attorney to complete additional training  
1568 hours in addition to the hours required by the State Bar of Georgia.
- 1569 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of  
1570 fraud or malice and in accordance with the duties required by this Code section, shall have  
1571 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed  
1572 as a result of taking or failing to take any action pursuant to this Code section.
- 1573 (h) The court may remove a guardian ad litem from a case upon finding that the guardian  
1574 ad litem acted in a manner contrary to a child's best interests, has not appropriately  
1575 participated in the case, or if the court otherwise deems continued service as inappropriate  
1576 or unnecessary.
- 1577 (i) A guardian ad litem shall not engage in ex parte contact with the court except as  
1578 otherwise provided by law.
- 1579 (j) The court, a child, or any other party may compel a guardian ad litem for a child to  
1580 attend a trial or hearing relating to such child and to testify, if appropriate, as to the proper  
1581 disposition of a proceeding.
- 1582 (k) The court shall ensure that parties have the ability to challenge recommendations made  
1583 by the guardian ad litem or the factual basis for the recommendations in accordance with  
1584 the rules of evidence applicable to the specific proceeding.
- 1585 (l) A guardian ad litem's report shall not be admissible into evidence prior to the  
1586 disposition hearing except in accordance with the rules of evidence applicable to the  
1587 specific proceeding.
- 1588 (m) A guardian ad litem who is not also serving as attorney for a child may be called as  
1589 a witness for the purpose of cross-examination regarding the guardian ad litem's report  
1590 even if the guardian ad litem is not identified as a witness by a party.
- 1591 15-11-105.
- 1592 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for  
1593 which the guardian ad litem has been appointed.

1594 (b) In determining a child's best interests, a guardian ad litem shall consider and evaluate  
 1595 all of the factors affecting the best interests of a child in the context of a child's age and  
 1596 developmental needs. Such factors shall include:

1597 (1) The physical safety and welfare of such child, including food, shelter, health, and  
 1598 clothing;

1599 (2) The mental and physical health of all individuals involved;

1600 (3) Evidence of domestic violence in any current, past, or considered home for such  
 1601 child;

1602 (4) Such child's background and ties, including familial, cultural, and religious;

1603 (5) Such child's sense of attachments, including his or her sense of security and  
 1604 familiarity and continuity of affection for the child;

1605 (6) The least disruptive placement alternative for such child;

1606 (7) The child's wishes and long-term goals;

1607 (8) The child's community ties, including church, school, and friends;

1608 (9) The child's need for permanence, including his or her need for stability and continuity  
 1609 of relationships with a parent, siblings, and other relatives;

1610 (10) The uniqueness of every family and child;

1611 (11) The risks attendant to entering and being in substitute care;

1612 (12) The preferences of the persons available to care for such child; and

1613 (13) Any other factors considered by the guardian ad litem to be relevant and proper to  
 1614 his or her determination.

1615 (c) Unless a child's circumstances render the following duties and responsibilities  
 1616 unreasonable, a guardian ad litem shall at a minimum:

1617 (1) Maintain regular and sufficient in-person contact with the child and, in a manner  
 1618 appropriate to his or her developmental level, meet with and interview such child prior  
 1619 to custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any  
 1620 other hearings scheduled in accordance with the provisions of this chapter;

1621 (2) In a manner appropriate to such child's developmental level, ascertain such child's  
 1622 needs, circumstances, and views;

1623 (3) Conduct an independent assessment to determine the facts and circumstances  
 1624 surrounding the case;

1625 (4) Consult with the child's attorney, if appointed separately, regarding the issues in the  
 1626 proceeding;

1627 (5) Communicate with health care, mental health care, and other professionals involved  
 1628 with such child's case;

1629 (6) Review case study and educational, medical, psychological, and other relevant  
 1630 reports relating to such child and the respondents;

- 1631 (7) Review all court related documents;
- 1632 (8) Attend all court hearings and other proceedings to advocate for such child's best  
 1633 interests;
- 1634 (9) Advocate for timely court hearings to obtain permanency for such child;
- 1635 (10) Protect the cultural needs of such child;
- 1636 (11) Contact the child prior to any proposed change in such child's placement;
- 1637 (12) Contact the child after changes in such child's placement;
- 1638 (13) Request a judicial citizen review panel or judicial review of the case;
- 1639 (14) Attend citizen panel review hearings concerning such child and if unable to attend  
 1640 the hearings, forward to the panel a letter setting forth such child's status during the  
 1641 period since the last citizen panel review and include an assessment of the DFCS  
 1642 permanency and treatment plans;
- 1643 (15) Provide written reports to the court and the parties on the child's best interests,  
 1644 including, but not limited to, recommendations regarding placement of such child,  
 1645 updates on such child's adjustment to placement, DFCS's and respondent's compliance  
 1646 with prior court orders and treatment plans, such child's degree of participation during  
 1647 visitations, and any other recommendations based on the best interests of the child;
- 1648 (16) When appropriate, encourage settlement and the use of any alternative forms of  
 1649 dispute resolution and participate in such processes to the extent permitted; and
- 1650 (17) Monitor compliance with the case plan and all court orders.
- 1651 (d)(1) Except as provided in Article 11 of this chapter, a guardian ad litem shall receive  
 1652 notices, pleadings, or other documents required to be provided to or served upon a party  
 1653 and shall be notified of all court hearings, judicial reviews, judicial citizen review panels,  
 1654 and other significant changes of circumstances of a child's case which he or she is  
 1655 appointed to the same extent and in the same manner as the parties to the case are notified  
 1656 of such matters.
- 1657 (2) A guardian ad litem shall be notified of the formulation of any case plan of a child's  
 1658 case which he or she is appointed and may be given the opportunity to be heard by the  
 1659 court about such plans.
- 1660 (e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem  
 1661 shall have access to all records and information relevant to a child's case to which he or she  
 1662 is appointed when such records and information are not otherwise protected from  
 1663 disclosure pursuant to Code Section 19-7-5. Such records and information shall not  
 1664 include records and information provided under Article 11 of this chapter or provided  
 1665 under Chapter 4A of Title 49.

1666 (f) All records and information acquired or reviewed by a guardian ad litem during the  
 1667 course of his or her appointment shall be deemed confidential and shall not be disclosed  
 1668 except as ordered by the court.

1669 (g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian  
 1670 ad litem who discloses confidential information obtained during the course of his or her  
 1671 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem  
 1672 shall maintain all information and records regarding mental health, developmental  
 1673 disability, and substance abuse according to the confidentiality requirements contained in  
 1674 Code Section 37-3-166, 37-4-125, or 37-7-166, as applicable.

1675 (h) In the event of a change of venue, the original guardian ad litem shall, as soon as  
 1676 possible, communicate with the appointed guardian ad litem in the new venue and shall  
 1677 forward all pertinent information to the new guardian ad litem.

1678 15-11-106.

1679 (a)(1) Before executing duties as a CASA, and upon completion of all the requirements  
 1680 of an affiliate court appointed special advocate program, a CASA shall be sworn in by  
 1681 a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A  
 1682 CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as  
 1683 set forth in this paragraph.

1684 (2) If a juvenile court judge determines that a child involved in a dependency proceeding  
 1685 needs a CASA, the judge shall have the authority to appoint a CASA, and in such  
 1686 circumstance shall sign an order appointing a CASA at the earliest possible stage of the  
 1687 proceedings. Such order shall impose on a CASA all the duties, rights, and  
 1688 responsibilities set forth in this Code section and Code Sections 15-11-104 and  
 1689 15-11-105.

1690 (b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for  
 1691 the best interests of the child.

1692 (c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court  
 1693 may discharge a CASA upon finding that the CASA has acted in a manner contrary to the  
 1694 mission and purpose of the affiliate court appointed special advocate program.

1695 15-11-107.

1696 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious  
 1697 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,  
 1698 shall not be the sole basis for considering his or her child to be a dependent child; provided,  
 1699 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the

1700 access of a child to medical care in a life-threatening situation or when the condition will  
 1701 result in serious disability.

1702 (b) In order to make a determination as to whether a child is in a life-threatening situation  
 1703 or that a child's condition will result in serious disability, the court may order a medical  
 1704 evaluation of a child.

1705 (c) If the court determines, on the basis of any relevant evidence before the court,  
 1706 including the court ordered medical evaluation and the affidavit of the attending physician,  
 1707 that a child is in a life-threatening situation or that a child's condition will result in serious  
 1708 disability, the court may order that medical treatment be provided for such child.

1709 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the  
 1710 provision of medical treatment in accordance with a court order shall be considered to be  
 1711 a dependent child and the court may find the parent, guardian, or legal custodian in  
 1712 contempt and enter any order authorized by and in accordance with the provisions of Code  
 1713 Section 15-11-31.

1714 15-11-108.

1715 (a) The court shall give to all parties written notice of the date, time, place, and purpose  
 1716 of the following postadjudication hearings or reviews:

1717 (1) Nonreunification hearings;

1718 (2) Disposition hearings;

1719 (3) Periodic review hearings;

1720 (4) Periodic reviews by judicial citizen review panel;

1721 (5) Permanency plan hearings;

1722 (6) Termination of parental rights hearings; and

1723 (7) Posttermination of parental rights review hearings.

1724 (b) Issuance and service of summons, when appropriate, shall comply with the  
 1725 requirements of Code Sections 15-11-160 and 15-11-161.

1726 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the  
 1727 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or  
 1728 hand delivery.

1729 15-11-109.

1730 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,  
 1731 place, and purpose of the review or hearing, including the right to be heard, to the caregiver  
 1732 of a child, the foster parent of a child, any preadoptive parent, or any relative providing  
 1733 care for a child. The written notice shall be delivered to the recipient at least 72 hours  
 1734 before the review or hearing, except in the case of preliminary protective hearings or

1735 emergency hearings when such notice is not possible, by United States mail, e-mail, or  
 1736 hand delivery.

1737 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster  
 1738 parent, preadoptive parent, or relative caring for a child to be made a party to the hearing  
 1739 or review solely on the basis of such notice and opportunity to be heard.

1740 15-11-110.

1741 (a) Upon request of an attorney for a party, the court may continue any hearing under this  
 1742 article beyond the time limit within which the hearing is otherwise required to be held;  
 1743 provided, however, that no continuance shall be granted that is contrary to the interests of  
 1744 the child. In considering a child's interests, the court shall give substantial weight to a  
 1745 child's need for prompt resolution of his or her custody status, the need to provide a child  
 1746 with a stable environment, and the damage to a child of prolonged temporary placements.

1747 (b) Continuances shall be granted only upon a showing of good cause and only for that  
 1748 period of time shown to be necessary by the evidence presented at the hearing on the  
 1749 motion. Whenever any continuance is granted, the facts proved which require the  
 1750 continuance shall be entered in the court record.

1751 (c) A stipulation between attorneys or the convenience of the parties shall not constitute  
 1752 good cause. Except as otherwise provided by judicial rules governing attorney conflict  
 1753 resolution, a pending criminal prosecution or family law matter shall not constitute good  
 1754 cause. The need for discovery shall not constitute good cause.

1755 (d) In any case in which a child or his or her parent, guardian, or legal custodian is  
 1756 represented by an attorney and no objection is made to an order continuing any such  
 1757 hearing beyond the time limit, the absence of such an objection shall be deemed a consent  
 1758 to the continuance; provided, however, that even with consent, the court shall decide  
 1759 whether to grant the continuance in accordance with subsection (a) of this Code section.

1760 15-11-111.

1761 (a) At any hearing held with respect to a child, the court in its discretion, and based upon  
 1762 the evidence, may enter an order:

1763 (1) Accepting or rejecting any DFCS report;

1764 (2) Ordering an additional evaluation; or

1765 (3) Undertaking such other review as it deems necessary and appropriate to determine  
 1766 the disposition that is in the child's best interests.

1767 (b) The court's order:

1768 (1) May incorporate all or part of the DFCS report; and

1769 (2) Shall include findings of fact which reflect the court's consideration of the oral and  
 1770 written testimony offered by all parties, as well as nonparties, who are required to be  
 1771 provided with notice and a right to be heard in any hearing to be held with respect to a  
 1772 child, and DFCS.

1773 15-11-112.

1774 (a) When a child is removed from his or her home, the court shall order reasonable  
 1775 visitation that is consistent with the age and developmental needs of a child if the court  
 1776 finds that it is in a child's best interests. The court's order shall specify the frequency,  
 1777 duration, and terms of visitation including whether or not visitation shall be supervised or  
 1778 unsupervised.

1779 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds  
 1780 that unsupervised visitation is not in a child's best interests.

1781 (c) Within 30 days of the court finding that there is a lack of substantial progress towards  
 1782 completion of a case plan, the court shall review the terms of visitation and determine  
 1783 whether the terms continue to be appropriate for a child or whether the terms need to be  
 1784 modified.

1785 15-11-113.

1786 When a child is alleged to be a dependent child, the date such child is considered to have  
 1787 entered foster care shall be the date of the first judicial finding that such child has been  
 1788 subjected to child abuse or neglect or the date that is 60 days after the date on which such  
 1789 child is removed from his or her home, whichever is earlier.

1790 Part 2

1791 15-11-125.

1792 (a) A proceeding under this article may be commenced:

1793 (1) In the county in which a child legally resides; or

1794 (2) In the county in which a child is present when the proceeding is commenced if such  
 1795 child is present without his or her parent, guardian, or legal custodian or the acts  
 1796 underlying the dependency allegation are alleged to have occurred in that county.

1797 (b) For the convenience of the parties, the court may transfer the proceeding to the county  
 1798 in which a child legally resides. If the proceeding is transferred, certified copies of all legal  
 1799 and social documents and records pertaining to the proceeding on file with the clerk of  
 1800 court shall accompany the transfer.

Part 3

1801

1802 15-11-130.

1803 (a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized  
1804 to provide emergency care and supervision to any child without seeking a court order for  
1805 a period not to exceed seven days when:

1806 (1) As a result of an emergency or illness, the person who has physical and legal custody  
1807 of a child is unable to provide for the care and supervision of such child, and such person  
1808 or a law enforcement officer, emergency personnel employed by a licensed ambulance  
1809 provider, fire rescue personnel, or a hospital administrator or his or her designee requests  
1810 that DFCS exercise such emergency custody; and

1811 (2) A child is not at imminent risk of abuse or neglect, other than the risks arising from  
1812 being without a caretaker.

1813 (b) During the period when a child is in the temporary care and supervision of DFCS,  
1814 DFCS shall endeavor to place such child with a relative of such child's parent, guardian,  
1815 or legal custodian, in foster care, or in emergency foster care or shall make other  
1816 appropriate placement arrangements. DFCS shall have the same rights and powers with  
1817 regard to such child as does his or her parent, guardian, or legal custodian including the  
1818 right to consent to medical treatment.

1819 (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for  
1820 a relative or other designee of a child's parent who can provide for the care and supervision  
1821 of such child.

1822 (d) At any time during such seven-day period, and upon notification to DFCS that a child's  
1823 parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof,  
1824 is able to provide care to and exercise control over a child, DFCS shall release such child  
1825 to the person having custody of such child at the time such child was taken into DFCS  
1826 custody or to such person's authorized relative or designee.

1827 (e) Upon the expiration of such seven-day period, if a child has not been released or if  
1828 DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall  
1829 promptly contact a juvenile court intake officer or bring such child before the juvenile  
1830 court. If, upon making an investigation, the juvenile court intake officer finds that foster  
1831 care is warranted for such child, then, for purposes of this chapter, such child shall be  
1832 deemed to have been placed in foster care at the time such finding was made and DFCS  
1833 may file a dependency petition.

1834 (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and  
1835 all liability for providing care and supervision in accordance with this Code section, for  
1836 consenting to medical treatment for a child, and for releasing a child.

1837 15-11-131.

1838 (a) Notwithstanding Code Section 15-11-133, a physician licensed to practice medicine  
 1839 in this state who is treating a child may take or retain temporary protective custody of such  
 1840 child, without a court order and without the consent of his or her parent, guardian, or legal  
 1841 custodian, provided that:

1842 (1) A physician has reasonable cause to believe that such child is in a circumstance or  
 1843 condition that presents an imminent danger to such child's life or health as a result of  
 1844 suspected abuse or neglect; or

1845 (2) There is reasonable cause to believe that such child has been abused or neglected and  
 1846 there is not sufficient time for a court order to be obtained for temporary custody of such  
 1847 child before such child may be removed from the presence of the physician.

1848 (b) A physician holding a child in temporary protective custody shall:

1849 (1) Make reasonable and diligent efforts to inform the child's parents, guardian, or legal  
 1850 custodian of the whereabouts of such child;

1851 (2) As soon as possible, make a report of the suspected abuse or neglect which caused  
 1852 him or her to take temporary custody of the child and inform DFCS that such child has  
 1853 been held in temporary custody; and

1854 (3) Not later than 24 hours after such child is held in temporary custody:

1855 (A) Contact a juvenile court intake officer, and inform such intake officer that such  
 1856 child is in imminent danger to his or her life or health as a result of suspected abuse or  
 1857 neglect; or

1858 (B) Contact a law enforcement officer who shall take such child and promptly bring  
 1859 such child before a juvenile court intake officer.

1860 (c) A child who meets the requirements for inpatient admission shall be retained in a  
 1861 hospital or institution until such time as such child is medically ready for discharge. Upon  
 1862 notification by the hospital or institution to DFCS that a child who is not eligible for  
 1863 inpatient admission or who is medically ready for discharge has been taken into custody  
 1864 by a physician and such child has been placed in DFCS custody, DFCS shall take physical  
 1865 custody of such child within six hours of being notified.

1866 (d) If a juvenile court intake officer determines that a child is to be placed in foster care  
 1867 and the court orders that such child be placed in DFCS custody, then:

1868 (1) If such child remains in the physical care of the physician, DFCS shall take physical  
 1869 possession of such child within six hours of being notified by the physician, unless such  
 1870 child meets the criteria for admission to a hospital or other medical institution or facility;  
 1871 or

1872 (2) If such child has been brought before the court by a law enforcement officer, DFCS  
 1873 shall promptly take physical possession of such child.

1874 (e) If a juvenile court intake officer determines that a child should not be placed in foster  
 1875 care, such child shall be released.

1876 (f) If a child is placed in foster care, then the court shall notify such child's parents,  
 1877 guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing  
 1878 which is to be held within 72 hours.

1879 (g) If after the preliminary protective hearing a child is not released, DFCS shall file a  
 1880 petition alleging dependency in accordance with this article, provided that there is a  
 1881 continued belief that such child's life or health is in danger as a result of suspected abuse  
 1882 or neglect.

1883 (h) Any hospital or physician authorized and acting in good faith and in accordance with  
 1884 acceptable medical practice in the treatment of a child under this Code section shall have  
 1885 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed  
 1886 as a result of taking or failing to take any action pursuant to this Code section. This Code  
 1887 section shall not be construed as imposing any additional duty not already otherwise  
 1888 imposed by law.

1889 15-11-132.

1890 (a) The facts supporting the issuance of an order of removal may be relayed orally,  
 1891 including telephonically, to the judge or a designated juvenile court intake officer, and the  
 1892 order directing that a child be taken into custody may be issued orally or electronically.

1893 (b) When a child is taken into custody under exceptional circumstances, an affidavit or  
 1894 sworn complaint containing the information previously relayed orally, including  
 1895 telephonically, shall be filed with the clerk of the court the next business day, and a written  
 1896 order shall be issued if not previously issued. The written order shall include the court's  
 1897 findings of fact supporting the necessity for such child's removal from the custody of his  
 1898 or her parent, guardian, or legal custodian in order to safeguard such child's welfare and  
 1899 shall designate a child's legal custodian.

1900 (c) The affidavit or sworn complaint filed after a child has been placed shall indicate  
 1901 whether the child was released to such child's parent, guardian, or legal custodian or  
 1902 remains removed.

1903 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the  
 1904 allegations forming the basis for taking a child into custody and, if such child is not  
 1905 released, of the time and place of the preliminary protective hearing.

1906 15-11-133.

1907 (a) A child may be removed from his or her home, without the consent of his or her  
 1908 parents, guardian, or legal custodian:

- 1909 (1) Pursuant to an order of the court under this article; or  
 1910 (2) By a law enforcement officer or duly authorized officer of the court if a child is in  
 1911 imminent danger of abuse or neglect if he or she remains in the home.  
 1912 (b) Upon removing a child from his or her home, a law enforcement officer or duly  
 1913 authorized officer of the court shall:  
 1914 (1) Immediately deliver such child to a medical facility if such child is believed to suffer  
 1915 from a serious physical condition or illness which requires prompt treatment, and, upon  
 1916 delivery, shall promptly contact DFCS;  
 1917 (2) Bring such child immediately before the juvenile court or promptly contact a juvenile  
 1918 court intake officer; and  
 1919 (3) Promptly give notice to the court and such child's parents, guardian, or legal  
 1920 custodian that such child is in protective custody, together with a statement of the reasons  
 1921 for taking such child into protective custody.  
 1922 (c) The removal of a child from his or her home by a law enforcement officer shall not be  
 1923 deemed an arrest.  
 1924 (d) A law enforcement officer removing a child from his or her home has all the privileges  
 1925 and immunities of a law enforcement officer making an arrest.  
 1926 (e) A law enforcement officer shall promptly contact a juvenile court intake officer for  
 1927 issuance of a court order once such officer has taken a child into protective custody and  
 1928 delivered such child to a medical facility.  
 1929 (f) A juvenile court intake officer shall immediately determine if a child should be  
 1930 released, remain in protective custody, or be brought before the court upon being contacted  
 1931 by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has  
 1932 been taken into protective custody.
- 1933 15-11-134.  
 1934 (a) Any order authorizing the removal of a child from his or her home shall be based on  
 1935 a finding by the court that continuation in his or her home would be contrary to his or her  
 1936 welfare.  
 1937 (b) Any order continuing a child's placement outside of the physical custody of his or her  
 1938 parent, guardian, or legal custodian shall be based on a finding by the court that return of  
 1939 such child to such custody would be contrary to his or her welfare.  
 1940 (c) Findings under this Code section shall be made on an individualized case-by-case basis  
 1941 and shall be documented in the court's written order.

1942 15-11-135.

1943 (a) A child taken into custody shall not be placed in foster care prior to the hearing on a  
 1944 petition for dependency unless:

1945 (1) Foster care is required to protect the child;

1946 (2) The child has no parent, guardian, or legal custodian or other person able to provide  
 1947 supervision and care and return him or her to the court when required; or

1948 (3) An order for the child's foster care has been made by the court.

1949 (b) No child alleged to be or adjudicated as a dependent child shall be detained in any jail,  
 1950 adult lockup, or adult detention facility, nor shall a child be detained in a secure residential  
 1951 facility or nonsecure residential facility unless a child is also alleged to have committed a  
 1952 delinquent act or adjudicated to be a delinquent child and the court determines that the  
 1953 requirements for detention under Article 6 of this chapter are met.

1954 (c) An alleged dependent child may be placed in foster care only in:

1955 (1) A licensed or approved foster home or a home approved by the court which may be  
 1956 a public or private home or the home of the child's noncustodial parent or of a relative;

1957 (2) A facility operated by a licensed child welfare agency; or

1958 (3) A licensed shelter care facility approved by the court.

1959 (d) The actual physical placement of a child pursuant to this Code section shall require the  
 1960 approval of the judge of the juvenile court or his or her designee.

1961 (e) In any case in which a child is taken into protective custody of DFCS, such child shall  
 1962 be placed together with his or her siblings who are also in protective custody or DFCS shall  
 1963 include a statement in its report and case plan of continuing efforts to place the siblings  
 1964 together or why such efforts are not appropriate. If siblings are not placed together, DFCS  
 1965 shall provide for frequent visitation or other ongoing interaction between siblings, unless  
 1966 DFCS documents that such frequent visitation or other ongoing interaction would be  
 1967 contrary to the safety or well-being of any of the siblings.

1968 Part 4

1969 15-11-145.

1970 (a) If an alleged dependent child is removed from his or her home and is not returned  
 1971 home, the preliminary protective hearing shall be held promptly and not later than 72 hours  
 1972 after such child is placed in foster care; provided, however, that if the 72 hour time frame  
 1973 expires on a weekend or legal holiday, the hearing shall be held on the next day which is  
 1974 not a weekend or legal holiday.

- 1975 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the  
 1976 time, place, and purpose of the hearing, shall be given to the child who is a party in such  
 1977 hearing and, if such person can be found, to his or her parent, guardian, or legal custodian.
- 1978 (c) If an alleged dependent child's parent, guardian, or legal custodian has not been notified  
 1979 of the preliminary protective hearing and did not appear or waive appearance at such  
 1980 hearing and thereafter files an affidavit showing such facts, the court shall rehear the matter  
 1981 without unnecessary delay and shall order such child's release unless it appears from such  
 1982 hearing that such child's foster care is warranted or required.
- 1983 (d) The following persons shall have the right to participate in the preliminary protective  
 1984 hearing:
- 1985 (1) A child's parent, guardian, or legal custodian, unless such person cannot be located  
 1986 or fails to appear in response to the notice;
- 1987 (2) A child's attorney and guardian ad litem if a guardian ad litem has been appointed;
- 1988 (3) A child who was removed from his or her home, unless the court finds, after  
 1989 considering evidence of harm to such child that will result from such child's presence at  
 1990 the proceeding, that being present is not in such child's best interests;
- 1991 (4) A parent's attorney if an attorney has been retained or appointed;
- 1992 (5) The assigned DFCS caseworker; and
- 1993 (6) The attorney for DFCS.
- 1994 (e) The court may allow the following parties to be present at the preliminary protective  
 1995 hearing, if the court finds it is in the best interests of the child:
- 1996 (1) Any relative or other persons who have demonstrated an ongoing commitment to a  
 1997 child with whom a child might be placed;
- 1998 (2) DFCS employees involved in the case;
- 1999 (3) An advocate as requested by an alleged dependent child's parent, guardian, or legal  
 2000 custodian; and
- 2001 (4) Other persons who have knowledge of or an interest in the welfare of the child who  
 2002 is alleged to be dependent.
- 2003 (f) At the commencement of a preliminary protective hearing, the court shall inform the  
 2004 parties of:
- 2005 (1) The contents of the complaint in terms understandable to the parties;
- 2006 (2) The nature of the proceedings in terms understandable to the parties; and
- 2007 (3) The parties' due process rights, including the parties' right to an attorney and to an  
 2008 appointed attorney if they are indigent persons, the right to call witnesses and to  
 2009 cross-examine all witnesses, the right to present evidence, and the right to a trial by the  
 2010 court on the allegations in the complaint or petition.

2011 (g) If a child is not released at the preliminary protective hearing, a petition for  
 2012 dependency shall be made and presented to the court within five days of such hearing.

2013 15-11-146.

2014 (a) At the preliminary protective hearing, the court shall determine:

2015 (1) Whether there is probable cause to believe a child is a dependent child; and

2016 (2) Whether protective custody of a child is necessary to prevent abuse or neglect  
 2017 pending the hearing on the dependency petition.

2018 (b) The court:

2019 (1) On finding that the complainant has not proved either of the required elements  
 2020 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return  
 2021 the child before the court to his or her parent, guardian, or legal custodian;

2022 (2) On finding that the complainant has not met the burden of proving that protective  
 2023 custody is necessary, shall return the child before the court to his or her parent, guardian,  
 2024 or legal custodian pending the hearing on the dependency petition; or

2025 (3) On finding that the complainant has met the burden prescribed in subsection (a) of  
 2026 this Code section, may place the child before the court in the temporary custody of DFCS  
 2027 pending the hearing on the dependency petition.

2028 (c) A court's order removing a child from his or her home shall be based upon a finding  
 2029 that:

2030 (1) Continuation in his or her home would be contrary to such child's welfare; and

2031 (2) Removal is in such child's best interests.

2032 (d) The court shall make written findings as to whether DFCS has made reasonable efforts  
 2033 to prevent or eliminate the need for removal of a child from his or her home and to make  
 2034 it possible for such child to safely return home. If the court finds that no services were  
 2035 provided but that reasonable services would not have eliminated the need for protective  
 2036 custody, the court shall consider DFCS to have made reasonable efforts to prevent or  
 2037 eliminate the need for protective custody. The court shall include in the written findings  
 2038 a brief description of what preventive and reunification efforts were made by DFCS.

2039 (e) In determining whether a child shall be removed or continued out of his or her home,  
 2040 the court shall consider whether reasonable efforts can prevent or eliminate the need to  
 2041 separate the family. The court shall make a written finding in every order of removal that  
 2042 describes why it is in the best interests of the child that he or she be removed from his or  
 2043 her home or continued in foster care.

2044 (f) To aid the court in making the required written findings, DFCS shall present evidence  
 2045 to the court outlining the reasonable efforts made to prevent taking a child into protective

2046 custody and to provide services to make it possible for such child to safely return to his or  
2047 her home and why protective custody is in the best interests of the child.

2048 Part 5

2049 15-11-150.

2050 A DFCS employee, a law enforcement officer, or any person who has actual knowledge  
2051 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or  
2052 abandonment of a child that he or she believes to be truthful may make a petition alleging  
2053 dependency.

2054 15-11-151.

2055 (a) If a child was removed from his or her home, a petition alleging dependency shall be  
2056 filed within five days of the preliminary protective hearing.

2057 (b) If a child was not removed from his or her home or if a child was removed from his or  
2058 her home but was released from protective custody at the preliminary protective hearing,  
2059 a petition alleging dependency shall be filed within 30 days of the preliminary protective  
2060 hearing.

2061 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested  
2062 extension of time for filing a petition alleging dependency in accordance with the best  
2063 interests of the child. The court shall issue a written order reciting the facts justifying the  
2064 extension.

2065 (d) If a petition alleging dependency is not filed within the required time frame, the  
2066 complaint shall be dismissed without prejudice.

2067 15-11-152.

2068 A petition alleging dependency shall be verified and may rely on information and belief  
2069 and shall set forth plainly and with particularity:

2070 (1) The facts which bring a child within the jurisdiction of the court, with a statement  
2071 that it is in the best interests of the child and the public that the proceeding be brought;

2072 (2) The name, date of birth, and residence address of the child named in the petition;

2073 (3) The name and residence address of the parent, guardian, or legal custodian of the  
2074 child named in the petition; or, if such child's parent, guardian, or legal custodian does  
2075 not reside or cannot be found within the state or if such place of residence address is  
2076 unknown, the name of any known adult relative of such child residing within the county  
2077 or, if there is none, the known adult relative of such child residing nearest to the location  
2078 of the court;

2079 (4) Whether the child named in the petition is in protective custody and, if so, the place  
2080 of his or her foster care and the time such child was taken into protective custody; and  
2081 (5) Whether any of the information required by this Code section is unknown.

2082 15-11-153.

2083 (a) The petitioner may amend the petition alleging dependency at any time:

2084 (1) To cure defects of form; and

2085 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for  
2086 adjudication.

2087 (b) When the petition is amended after the initial service to include new allegations of fact  
2088 or requests for adjudication, the amended petition shall be served on the parties and  
2089 provided to the attorneys of record.

2090 (c) The court shall grant the parties additional time to prepare only as may be required to  
2091 ensure a full and fair hearing; provided, however, that when a child is in protective custody  
2092 or in detention, an adjudication hearing shall not be delayed more than ten days beyond the  
2093 time originally fixed for the hearing.

2094 Part 6

2095 15-11-160.

2096 (a) The court shall direct the issuance of a summons to a child if such child is 14 years of  
2097 age or older, such child's parent, guardian, or legal custodian, such child's attorney, such  
2098 child's guardian ad litem, if any, and any other persons who appear to the court to be proper  
2099 or necessary parties to the proceeding, requiring them to appear before the court at the time  
2100 fixed to answer the allegations of the petition alleging dependency. A copy of the petition  
2101 alleging dependency shall accompany the summons unless the summons is served by  
2102 publication, in which case the published summons shall indicate the general nature of the  
2103 allegations and where a copy of the petition alleging dependency can be obtained.

2104 (b) A summons shall state that a party is entitled to an attorney in the proceedings and that  
2105 the court will appoint an attorney if the party is an indigent person.

2106 (c) The court may endorse upon the summons an order directing a child's parent, guardian,  
2107 or legal custodian to appear personally at the hearing and directing the person having the  
2108 physical custody or control of a child to bring such child to the hearing.

2109 (d) A party other than a child may waive service of summons by written stipulation or by  
2110 voluntary appearance at the hearing.

2111 15-11-161.

2112 (a) If a party to be served with a summons is within this state and can be found, the  
2113 summons shall be served upon him or her personally as soon as possible and at least 72  
2114 hours before the adjudication hearing.

2115 (b) If a party to be served is within this state and cannot be found but his or her address is  
2116 known or can be ascertained with due diligence, the summons shall be served upon such  
2117 party at least five days before the adjudication hearing by mailing him or her a copy by  
2118 registered or certified mail or statutory overnight delivery, return receipt requested.

2119 (c) If a party to be served is outside this state but his or her address is known or can be  
2120 ascertained with due diligence, service of the summons shall be made at least five days  
2121 before the adjudication hearing either by delivering a copy to such party personally or by  
2122 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,  
2123 return receipt requested.

2124 (d) If, after due diligence, a party to be served with a summons cannot be found and such  
2125 party's address cannot be ascertained, whether he or she is within or outside this state, the  
2126 court may order service of the summons upon him or her by publication. The adjudication  
2127 hearing shall not be earlier than five days after the date of the last publication.

2128 (e)(1) Service by publication shall be made once a week for four consecutive weeks in  
2129 the official organ of the county where the petition alleging dependency has been filed.  
2130 Service shall be deemed complete upon the date of the last publication.

2131 (2) When served by publication, the notice shall contain the names of the parties, except  
2132 that the anonymity of a child shall be preserved by the use of appropriate initials, and the  
2133 date the petition alleging dependency was filed. The notice shall indicate the general  
2134 nature of the allegations and where a copy of the petition alleging dependency can be  
2135 obtained and require the party to be served by publication to appear before the court at  
2136 the time fixed to answer the allegations of the petition alleging dependency.

2137 (3) Within 15 days after the filing of the order of service by publication, the clerk of  
2138 court shall mail a copy of the notice, a copy of the order of service by publication, and  
2139 a copy of the petition alleging dependency to the last known address of the party being  
2140 served by publication.

2141 (f) Service of the summons may be made by any suitable person under the direction of the  
2142 court.

2143 (g) The court may authorize the payment from county funds of the costs of service and of  
2144 necessary travel expenses incurred by persons summoned or otherwise required to appear  
2145 at the hearing.

2146 15-11-162.

2147 (a) In the event a parent, guardian, or legal custodian of a child named in a petition  
 2148 alleging dependency is brought willfully fails to appear personally at a hearing after being  
 2149 ordered to so appear or willfully fails to bring such child to a hearing after being so  
 2150 directed, the court may issue an order against the person directing the person to appear  
 2151 before the court to show cause why he or she should not be held in contempt of court.

2152 (b) If a parent, guardian, or legal custodian of a child named in a petition alleging  
 2153 dependency is brought fails to appear in response to an order to show cause, the court may  
 2154 issue a bench warrant directing that such parent, guardian, or legal custodian be brought  
 2155 before the court without delay to show cause why he or she should not be held in contempt  
 2156 and the court may enter any order authorized by and in accordance with the provisions of  
 2157 Code Section 15-11-31.

2158 15-11-163.

2159 (a) If service of summons upon a party is made by publication, the court may conduct a  
 2160 provisional hearing upon the allegations of the petition alleging dependency and enter an  
 2161 interlocutory order of disposition if:

2162 (1) The petition alleges dependency of a child;

2163 (2) The summons served upon any party:

2164 (A) States that prior to the final hearing on such petition a provisional hearing will be  
 2165 held at a specified time and place;

2166 (B) Requires the party who is served other than by publication to appear and answer  
 2167 the allegations of the petition alleging dependency at the provisional hearing;

2168 (C) States further that findings of fact and orders of disposition made pursuant to the  
 2169 provisional hearing will become final at the final hearing unless the party served by  
 2170 publication appears at the final hearing; and

2171 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and

2172 (3) A child named in a petition alleging dependency is brought is personally before the  
 2173 court at the provisional hearing.

2174 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending  
 2175 final hearing on the petition alleging dependency.

2176 (c) If a party served by publication fails to appear at the final hearing on the petition  
 2177 alleging dependency, the findings of fact and interlocutory orders made shall become final  
 2178 without further evidence. If a party appears at the final hearing, the findings and orders  
 2179 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such  
 2180 petition without regard to this Code section.

Part 7

2181

2182 15-11-170.

2183 (a) In all cases under this article, any party shall, upon written request to the party having  
 2184 actual custody, control, or possession of the material to be produced, have full access to the  
 2185 following for inspection, copying, or photographing:

2186 (1) The names and telephone numbers of each witness likely to be called to testify at the  
 2187 hearing by another party;

2188 (2) A copy of any formal written statement made by the alleged dependent child or any  
 2189 witness that relates to the subject matter concerning the testimony of the witness that a  
 2190 party intends to call as a witness at the hearing;

2191 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or  
 2192 other report which is intended to be introduced at any hearing or that pertains to physical  
 2193 evidence which is intended to be introduced;

2194 (4) Any drug screen concerning the alleged dependent child or his or her parent,  
 2195 guardian, or legal custodian;

2196 (5) Any case plan concerning the alleged dependent child or his or her parent, guardian,  
 2197 or legal custodian;

2198 (6) Any visitation schedule related to the alleged dependent child;

2199 (7) Photographs and any physical evidence which are intended to be introduced at any  
 2200 hearing;

2201 (8) Copies of any police incident reports regarding an occurrence which forms part or  
 2202 all of the basis of the petition; and

2203 (9) Any other relevant evidence not requiring consent or a court order under  
 2204 subsection (b) of this Code section.

2205 (b) Upon presentation of a court order or written consent from the appropriate person or  
 2206 persons permitting access to the party having actual custody, control, or possession of the  
 2207 material to be produced, any party shall have access to the following for inspection,  
 2208 copying, or photographing:

2209 (1) Any psychological, developmental, physical, mental or emotional health, or other  
 2210 assessments of the alleged dependent child or his or her family, parent, guardian, or legal  
 2211 custodian;

2212 (2) Any school record concerning the alleged dependent child;

2213 (3) Any medical record concerning the alleged dependent child;

2214 (4) Transcriptions, recordings, and summaries of any oral statement of the alleged  
 2215 dependent child or of any witness, except child abuse reports that are confidential  
 2216 pursuant to Code Section 19-7-5 and work product of counsel;

- 2217 (5) Any family team meeting report or multidisciplinary team meeting report concerning  
 2218 the alleged dependent child or his or her parent, guardian, or legal custodian;
- 2219 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all  
 2220 of the basis of the petition; and
- 2221 (7) Immigration records concerning the alleged dependent child.
- 2222 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this  
 2223 Code section, it shall be the duty of such party to promptly make the following available  
 2224 for inspection, copying, or photographing to every other party:
- 2225 (1) The names and last known addresses and telephone numbers of each witness to the  
 2226 occurrence which forms the basis of the party's defense or claim;
- 2227 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
 2228 pertains to physical evidence which is intended to be introduced;
- 2229 (3) Photographs and any physical evidence which are intended to be introduced at the  
 2230 hearing; and
- 2231 (4) A copy of any written statement made by any witness that relates to the subject  
 2232 matter concerning the testimony of the witness that the party intends to call as a witness.
- 2233 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
 2234 not later than five days after the request is received or 72 hours prior to any hearing except  
 2235 when later compliance is made necessary by the timing of such request. If such request for  
 2236 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery  
 2237 response shall be produced in a timely manner. If, subsequent to providing a discovery  
 2238 response in compliance with this Code section, the existence of additional evidence is  
 2239 found, it shall be promptly provided to the party making the discovery request.
- 2240 (e) If a request for discovery or consent for release is refused, application may be made to  
 2241 the court for a written order granting discovery. Motions for discovery shall certify that  
 2242 a request for discovery or consent was made and was unsuccessful despite good faith  
 2243 efforts made by the requesting party. An order granting discovery shall require reciprocal  
 2244 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the  
 2245 court may deny, in whole or in part, or otherwise limit or set conditions concerning a  
 2246 discovery response upon a sufficient showing by a person or entity to whom a request for  
 2247 discovery is made that disclosure of the information would:
- 2248 (1) Jeopardize the safety of a party, witness, or confidential informant;
- 2249 (2) Create a substantial threat of physical or economic harm to a witness or other person;
- 2250 (3) Endanger the existence of physical evidence;
- 2251 (4) Disclose privileged information; or

2252 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or  
 2253 the prosecution of an adult charged with an offense arising from the same transaction or  
 2254 occurrence.

2255 (f) No deposition shall be taken of an alleged dependent child unless the court orders the  
 2256 deposition, under such conditions as the court may order, on the ground that the deposition  
 2257 would further the purposes of this part.

2258 (g) If at any time during the course of the proceedings it is brought to the attention of the  
 2259 court that a person or entity has failed to comply with an order issued pursuant to this Code  
 2260 section, the court may grant a continuance, prohibit the party from introducing in evidence  
 2261 the information not disclosed, or enter such other order as the court deems just under the  
 2262 circumstances.

2263 (h) Nothing contained in this Code section shall prohibit the court from ordering the  
 2264 disclosure of any information that the court deems necessary for proper adjudication.

2265 (i) Any material or information furnished to a party pursuant to this Code section shall  
 2266 remain in the exclusive custody of the party and shall only be used during the pendency of  
 2267 the case and shall be subject to such other terms and conditions as the court may provide.

2268 Part 8

2269 15-11-180.

2270 The petitioner shall have the burden of proving the allegations of a dependency petition by  
 2271 clear and convincing evidence.

2272 15-11-181.

2273 (a) The court shall fix a time for an adjudication hearing. If the alleged dependent child  
 2274 is in foster care, the hearing shall be scheduled for no later than ten days after the filing of  
 2275 the petition alleging dependency. If the alleged dependent child is not in foster care, the  
 2276 adjudication hearing shall be held no later than 60 days after the filing of the petition  
 2277 alleging dependency. If adjudication is not completed within 60 days from the date such  
 2278 child was taken into protective custody, the petition alleging dependency may be dismissed  
 2279 without prejudice.

2280 (b) The following persons shall have the right to participate in the adjudication hearing:

2281 (1) The parent, guardian, or legal custodian of the alleged dependent child, unless such  
 2282 person cannot be located or fails to appear in response to the notice;

2283 (2) The attorney and guardian ad litem of the alleged dependent child;

- 2284 (3) The alleged dependent child, unless the court finds, after considering evidence of  
 2285 harm to such child that will result from his or her presence at the proceeding, that being  
 2286 present is not in the child's best interests;
- 2287 (4) The attorneys for the parent, guardian, or legal custodian of the alleged dependent  
 2288 child if attorneys have been retained or appointed;
- 2289 (5) The assigned DFCS caseworker; and
- 2290 (6) The attorney for DFCS.
- 2291 (c) If the court finds it is in the best interests of the alleged dependent child, the court may  
 2292 allow the following to be present at the adjudication hearing:
- 2293 (1) Any relative or other persons who have demonstrated an ongoing commitment to a  
 2294 child alleged to be a dependent child with whom he or she might be placed;
- 2295 (2) DFCS employees involved with the case;
- 2296 (3) An advocate as requested by the parent, guardian, or legal custodian of the alleged  
 2297 dependent child; and
- 2298 (4) Other persons who have knowledge of or an interest in the welfare of such child.
- 2299 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in  
 2300 accordance with Title 24. Testimony or other evidence relevant to the dependency of a  
 2301 child or the cause of such condition may not be excluded on any ground of privilege,  
 2302 except in the case of:
- 2303 (1) Communications between a party and his or her attorney; and
- 2304 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or  
 2305 similar functionary and his or her confidential communicant.
- 2306 (e) After hearing the evidence, the court shall make and file specific written findings as  
 2307 to whether a child is a dependent child.
- 2308 (f) If the court finds that a child is not a dependent child, it shall dismiss the petition  
 2309 alleging dependency and order such child discharged from foster care or other restriction  
 2310 previously ordered.
- 2311 (g) If the court adjudicates a child as a dependent child, the court shall proceed  
 2312 immediately or at a postponed hearing to make a proper disposition of the case.
- 2313 (h) If the court adjudicates a child as a dependent child, the court shall also make and file  
 2314 a finding whether such dependency is the result of substance abuse by such child's parent,  
 2315 guardian, or legal custodian.
- 2316 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court  
 2317 shall schedule the dates and times for the first periodic review hearing and for the  
 2318 permanency plan hearing.

Part 9

2319

2320 15-11-190.

2321 If the allegations of the petition alleging dependency are admitted or after an adjudication  
 2322 hearing the court has adjudicated a child as a dependent child, the court may direct that a  
 2323 written social study and report be made by a person designated by the court.

2324 15-11-191.

2325 Each social study shall include, but not be limited to, a factual discussion of each of the  
 2326 following subjects:

2327 (1) What plan, if any, for the return of the child adjudicated to be a dependent child to  
 2328 his or her parent and for achieving legal permanency for such child if efforts to reunify  
 2329 fail is recommended to the court;

2330 (2) Whether the best interests of the child will be served by granting reasonable visitation  
 2331 rights to his or her other relatives in order to maintain and strengthen the child  
 2332 adjudicated to be a dependent child's family relationships;

2333 (3) Whether the child adjudicated to be a dependent child has siblings under the court's  
 2334 jurisdiction, and, if so:

2335 (A) The nature of the relationship between such child and his or her siblings;

2336 (B) Whether the siblings were raised together in the same home and whether the  
 2337 siblings have shared significant common experiences or have existing close and strong  
 2338 bonds;

2339 (C) Whether the child adjudicated to be a dependent child expresses a desire to visit  
 2340 or live with his or her siblings and whether ongoing contact is in such child's best  
 2341 interests;

2342 (D) The appropriateness of developing or maintaining sibling relationships;

2343 (E) If siblings are not placed together in the same home, why the siblings are not  
 2344 placed together and what efforts are being made to place siblings together or why those  
 2345 efforts are not appropriate;

2346 (F) If siblings are not placed together, the frequency and nature of the visits between  
 2347 siblings; and

2348 (G) The impact of the sibling relationship on the child adjudicated to be a dependent  
 2349 child's placement and planning for legal permanence;

2350 (4) The appropriateness of any placement with a relative of the child adjudicated to be  
 2351 a dependent child; and

2352 (5) Whether a caregiver desires and is willing to provide legal permanency for a child  
 2353 adjudicated to be a dependent child if reunification is unsuccessful.

Part 10

2354

2355 15-11-200.

2356 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from his  
 2357 or her home and at each subsequent review of the disposition order, DFCS shall submit a  
 2358 written report to the court which shall either:

2359 (1) Include a case plan for a reunification of the family; or

2360 (2) Include a statement of the factual basis for determining that a plan for reunification  
 2361 is not appropriate.

2362 (b) The report submitted by DFCS shall become a discrete part of the case record in a  
 2363 format determined by DFCS and shall be made available to a child who is placed in DFCS  
 2364 custody if such child is 14 years of age or older, his or her attorney, his or her guardian ad  
 2365 litem, if any, and the parent, guardian, or legal custodian of such child. The contents of the  
 2366 report shall be determined at a meeting to be held by DFCS in consultation with the parent,  
 2367 guardian, or legal custodian and child who was placed in DFCS custody, when appropriate.  
 2368 The parent, guardian, or legal custodian, the child who was placed in DFCS custody if such  
 2369 child is 14 years of age or older, his or her attorney, and guardian ad litem, if any, shall be  
 2370 given written notice of the meeting at least five days in advance of such meeting and shall  
 2371 be advised that the report will be submitted to the court for consideration as an order of the  
 2372 court. The report submitted to the court shall also contain any dissenting recommendations  
 2373 of the judicial citizen review panel, if applicable, and any recommendations of the parent,  
 2374 guardian, or legal custodian of the child who was placed in DFCS custody, if such are  
 2375 available.

2376 (c) If the court adopts a report that contains a case plan for reunification services, it shall  
 2377 be in effect until modification by the court. A case plan shall address each reason requiring  
 2378 removal of a child from his or her home and shall, at a minimum, comply with the  
 2379 requirements of Code Section 15-11-201.

2380 (d) If the submitted DFCS report contains a proposed case plan for reunification services:

2381 (1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or  
 2382 relative providing care for the child who was placed in DFCS custody with a copy of  
 2383 those portions of the court approved case plan that involve the permanency goal and the  
 2384 services to be provided to the child;

2385 (2) A copy of the DFCS report and case plan shall be delivered to the parent, guardian,  
 2386 or legal custodian by United States mail, e-mail, or hand delivery at the same time the  
 2387 report and case plan are transmitted to the court, along with written notice that such report  
 2388 will be considered by the court without a hearing unless, within five days from the date  
 2389 the copy of such report and case plan were delivered, the parent, guardian, or legal

2390 custodian of the child who was placed in DFCS custody requests a hearing before the  
 2391 court to review such report and case plan; and

2392 (3) If no hearing is requested, the court shall enter a disposition order or supplemental  
 2393 order incorporating all elements of the case plan for reunification services which the court  
 2394 finds essential to reunification, specifying what shall be accomplished by all parties  
 2395 before reunification of the family can be achieved.

2396 (e) When DFCS recommends that reunification services are not appropriate and should not  
 2397 be allowed, the DFCS report shall address each reason requiring removal of a child from  
 2398 his or her home and shall contain at least the following:

2399 (1) The purpose for which the child in DFCS custody was placed in foster care, including  
 2400 a statement of the reasons why such child cannot be adequately and safely protected at  
 2401 his or her home and the harm which may occur if such child remains in his or her home  
 2402 and a description of the services offered and the services provided to prevent removal of  
 2403 such child from his or her home;

2404 (2) A clear statement describing all of the reasons supporting a finding that reunification  
 2405 of a child with his or her parent will be detrimental to such child and that reunification  
 2406 services therefore need not be provided, including specific findings as to whether any of  
 2407 the grounds for terminating parental rights exist; and

2408 (3) The statements, provisions, and requirements found in paragraphs (11) and (12) of  
 2409 subsection (b) of Code Section 15-11-201.

2410 15-11-201.

2411 (a) A case plan shall be designed to achieve placement in the most appropriate, least  
 2412 restrictive, and most family-like setting available and in close proximity to the alleged  
 2413 dependent child's parent's home, consistent with the best interests and special needs of such  
 2414 child, and shall consider the placement's proximity to the school in which such child is  
 2415 enrolled at the time of placement.

2416 (b) A case plan shall be developed by DFCS and the parent, guardian, or legal custodian  
 2417 of the alleged dependent child and, when appropriate, such child. A case plan shall  
 2418 include, but not be limited to, all of the following:

2419 (1) A description of the circumstances that resulted in such child being placed under the  
 2420 jurisdiction of the court and in foster care;

2421 (2) An assessment of such child's and his or her family's strengths and needs and the type  
 2422 of placement best equipped to meet those needs;

2423 (3) A description of the type of home or institution in which such child is to be placed,  
 2424 including a discussion of the safety and appropriateness of the placement;

- 2425 (4) Specific time-limited goals and related activities designed to enable the safe return  
 2426 of such child to his or her home, or, in the event that return to his or her home is not  
 2427 possible, activities designed to result in permanent placement or emancipation;  
 2428 (5) Assignment of specific responsibility for accomplishing the planned activities;  
 2429 (6) The projected date of completion of the case plan objectives;  
 2430 (7) The date time-limited services will be terminated;  
 2431 (8) A schedule of visits between such child and his or her siblings and other appropriate  
 2432 family members and an explanation if no visits are scheduled;  
 2433 (9) When placement is made in a foster family home, group home, or other child care  
 2434 institution that is either a substantial distance from the home of such child's parent,  
 2435 guardian, or legal custodian or out of state, the case plan shall specify the reasons why  
 2436 the placement is the most appropriate and is in the best interests of the child;  
 2437 (10) When an out-of-state group home placement is recommended or made, the case plan  
 2438 shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of  
 2439 Children. In addition, documentation of the recommendation of the multidisciplinary  
 2440 team and the rationale for such particular placement shall be included. The case plan  
 2441 shall also address what in-state services or facilities were used or considered and why  
 2442 they were not recommended;  
 2443 (11) If applicable, a statement that reasonable efforts have been made and a requirement  
 2444 that reasonable efforts shall be made for so long as such child remains in the custody of  
 2445 the department:  
 2446 (A) To place siblings removed from their home in the same foster care, kinship care,  
 2447 guardianship, or adoptive placement, unless DFCS documents that such a joint  
 2448 placement would be contrary to the safety or well-being of any of the siblings; and  
 2449 (B) In the case of siblings removed from their home who are not so jointly placed, for  
 2450 frequent visitation or other ongoing interaction between the siblings, unless DFCS  
 2451 documents that such frequent visitation or other ongoing interaction would be contrary  
 2452 to the safety or well-being of any of the siblings;  
 2453 (12) Provisions ensuring the educational stability of such child while in foster care,  
 2454 including:  
 2455 (A) An assurance that the placement of such child in foster care takes into account the  
 2456 appropriateness of the current educational setting and the proximity to the school in  
 2457 which such child is enrolled at the time of placement;  
 2458 (B) An assurance that the state agency has coordinated with appropriate local  
 2459 educational agencies to ensure that such child remains in the school in which such child  
 2460 is enrolled at the time of placement; or

2461 (C) If remaining in such school is not in the best interests of the child, an assurance by  
 2462 DFCS that DFCS and the local educational agencies have cooperated to assure the  
 2463 immediate and appropriate enrollment in a new school, with all of the educational  
 2464 records of such child provided to such new school;

2465 (13) An account of health and education information about such child including school  
 2466 records, immunizations, known medical problems, any known medications he or she may  
 2467 be taking, names and addresses of his or her health and educational providers; such  
 2468 child's grade level performance; assurances that such child's placement in foster care  
 2469 takes into account proximity to the school in which he or she was enrolled at the time of  
 2470 placement; and other relevant health and educational information;

2471 (14) A recommendation for a permanency plan for such child. If, after considering  
 2472 reunification, adoptive placement, or permanent guardianship, DFCS recommends  
 2473 placement in another planned permanent living arrangement, the case plan shall include  
 2474 documentation of a compelling reason or reasons why termination of parental rights is  
 2475 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall  
 2476 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

2477 (15) A statement that the parent, guardian, or legal custodian of such child and the child  
 2478 have had an opportunity to participate in the development of the case plan, to review the  
 2479 case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about  
 2480 why such persons were not able to participate or sign the case plan;

2481 (16) A requirement that the DFCS case manager and staff and, as appropriate, other  
 2482 representatives of such child provide him or her with assistance and support in  
 2483 developing a transition plan that is personalized at the direction of such child, including  
 2484 specific options on housing, health insurance, education, local opportunities for mentors  
 2485 and continuing support services, and work force supports and employment services, and  
 2486 is as detailed as such child may elect. The transition plan shall be completed in the 90  
 2487 day period;

2488 (A) Immediately prior to the date on which such child will attain 18 years of age; or

2489 (B) If such child remains in the care of DFCS past his or her eighteenth birthday,  
 2490 before his or her planned exit from DFCS care.

2491 (17) For such child in out-of-home care who is 14 years of age or older, a written  
 2492 description of the programs and services which will help him or her prepare for the  
 2493 transition from foster care to independent living; and

2494 (18) The identity of the person within DFCS or other agency who is directly responsible  
 2495 for ensuring that the case plan is implemented.

2496 15-11-202.

2497 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts  
 2498 shall be made to preserve or reunify families:

2499 (1) Prior to the placement of an alleged dependent child in DFCS custody to prevent the  
 2500 need for removing him or her from his or her home; or

2501 (2) To eliminate the need for removal and make it possible for a child alleged to be or  
 2502 adjudicated as a dependent child to return safely to his or her home at the earliest possible  
 2503 time.

2504 (b) In determining the type of reasonable efforts to be made to a child alleged to be or  
 2505 adjudicated as a dependent child and in making such reasonable efforts, such child's health  
 2506 and safety shall be the paramount concern.

2507 (c) Appropriate services to meet the needs of a child alleged to be or adjudicated as a  
 2508 dependent child and his or her family may include those provided by DFCS and other  
 2509 services available in the community.

2510 (d) The court shall be required to review the appropriateness of DFCS's reasonable efforts  
 2511 at each stage of the proceedings.

2512 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

2513 (A) It has made reasonable efforts to prevent placement of an alleged dependent child  
 2514 in foster care;

2515 (B) There are no appropriate services or efforts which could allow an alleged  
 2516 dependent child to safely remain in the home given the particular circumstances of such  
 2517 child and his or her family at the time of his or her removal and so the absence of such  
 2518 efforts was justifiable; or

2519 (C) Reasonable efforts to prevent placement and to reunify an alleged dependent child  
 2520 with his or her family are not required because of the existence of one or more of the  
 2521 circumstances enumerated in subsection (a) of Code Section 15-11-203.

2522 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:

2523 (A) It has made reasonable efforts to eliminate the need for removal of an alleged  
 2524 dependent child from his or her home and to reunify such child with his or her family  
 2525 at the earliest possible time; or

2526 (B) Reasonable efforts to prevent placement and to reunify an alleged dependent child  
 2527 with his or her family are not required because of the existence of one or more of the  
 2528 circumstances enumerated in subsection (a) of Code Section 15-11-203.

2529 (3) At each other hearing, DFCS has the burden of demonstrating that:

2530 (A) It has made reasonable efforts to eliminate the need for removal of a child alleged  
 2531 to be or adjudicated as a dependent child from his or her home and to reunify such child  
 2532 with his or her family at the earliest possible time; or

- 2533 (B) It has made reasonable efforts to finalize an alternative permanent home for a child  
 2534 alleged to be or adjudicated as a dependent child.
- 2535 (f) When determining whether reasonable efforts have been made, the court shall consider  
 2536 whether services to the child alleged to be or adjudicated as a dependent child and his or  
 2537 her family were:
- 2538 (1) Relevant to the safety and protection of such child;  
 2539 (2) Adequate to meet the needs of such child and his or her family;  
 2540 (3) Culturally and linguistically appropriate;  
 2541 (4) Available and accessible;  
 2542 (5) Consistent and timely; and  
 2543 (6) Realistic under the circumstances.
- 2544 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an  
 2545 order authorizing a child alleged to be or adjudicated as a dependent child's placement  
 2546 when the court finds that placement is necessary for the protection of such child.
- 2547 (h) When efforts to prevent the need for a child alleged to be or adjudicated as a dependent  
 2548 child's placement were precluded by an immediate threat of harm to such child, the court  
 2549 may make a finding that reasonable efforts were made if it finds that the placement of such  
 2550 child in the absence of such efforts was justifiable.
- 2551 (i) Reasonable efforts to place a child adjudicated as a dependent child for adoption or  
 2552 with a guardian or legal custodian may be made concurrently with reasonable efforts to  
 2553 reunify. When DFCS decides to concurrently make reasonable efforts for both  
 2554 reunification and permanent placement away from the parent, guardian, or legal custodian  
 2555 of a child adjudicated as a dependent child, DFCS shall disclose its decision and both plans  
 2556 to all parties and obtain approval from the court. When DFCS proceeds on both plans, the  
 2557 court's review of reasonable efforts shall include efforts under both plans.
- 2558 (j) An order placing or continuing the placement of a child alleged to be or adjudicated as  
 2559 a dependent child in DFCS custody shall contain, but not be limited to, written findings of  
 2560 facts stating:
- 2561 (1) That such child's continuation in or return to his or her home would be contrary to  
 2562 his or her welfare;  
 2563 (2) Whether reasonable efforts have been made to prevent or eliminate the need for  
 2564 placement of such child, unless the court has determined that such efforts are not required  
 2565 or shall cease; and  
 2566 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the  
 2567 need for placement of such child, unless the court has previously determined that such  
 2568 efforts are not required or shall cease.

2569 15-11-203.

2570 (a) The court may direct that reasonable efforts to eliminate the need for placement of an  
 2571 alleged dependent child shall not be required or shall cease if the court determines and  
 2572 makes written findings of fact that a parent of an alleged dependent child:

2573 (1) Has subjected his or her child to aggravated circumstances;

2574 (2) Has been convicted of the murder of another child of such parent;

2575 (3) Has been convicted of the voluntary manslaughter of another child of such parent;

2576 (4) Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to  
 2577 commit murder or voluntary manslaughter of another child of such parent;

2578 (5) Has been convicted of committing a felony assault that results in serious bodily  
 2579 injury to the child or another child of such parent;

2580 (6) Has been convicted of rape, sodomy, aggravated sodomy, child molestation,  
 2581 aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the  
 2582 alleged dependent child or another child of the parent;

2583 (7) Is required to register as a sex offender and that preservation of a parent-child  
 2584 relationship is not in the alleged dependent child's best interests; or

2585 (8) Has had his or her rights to a sibling of the alleged dependent child terminated  
 2586 involuntarily and the circumstances leading to such termination of parental rights to that  
 2587 sibling have not been resolved.

2588 (b) If the court determines that one or more of the circumstances enumerated in  
 2589 subsection (a) of this Code section exist or DFCS has submitted a written report to the  
 2590 court which does not contain a plan for reunification services, then:

2591 (1) A permanency plan hearing shall be held for a child adjudicated as a dependent child  
 2592 within 30 days; and

2593 (2) Reasonable efforts shall be made to place a child adjudicated as a dependent child in  
 2594 a timely manner in accordance with the permanency plan and to complete whatever steps  
 2595 are necessary to finalize the permanent placement of such child.

2596 15-11-204.

2597 (a) If the DFCS report does not contain a plan for reunification services, the court shall  
 2598 hold a nonreunification hearing to review the report and the determination that a plan for  
 2599 reunification services is not appropriate.

2600 (b) The nonreunification hearing shall be held no later than 30 days from the time the  
 2601 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by  
 2602 summons, to the child adjudicated as a dependent child if he or she is 14 years of age or  
 2603 older, his or her parent, guardian, or legal custodian, attorney, guardian ad litem, if any, and  
 2604 specified nonparties entitled to notice.

2605 (c) At the nonreunification hearing:

2606 (1) DFCS shall notify the court whether and when it intends to proceed with termination  
 2607 of parental rights; and

2608 (2) The court shall also hold a permanency plan hearing, at which the court shall  
 2609 consider in-state and out-of-state permanent placement options for the child adjudicated  
 2610 as a dependent child and shall incorporate a permanency plan for such child in its order.

2611 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that  
 2612 a reunification plan is not appropriate considering the health and safety of the child  
 2613 adjudicated as a dependent child and such child's need for permanence. There shall be a  
 2614 presumption that reunification is detrimental to a child adjudicated as a dependent child and  
 2615 reunification services should not be provided if the court finds by clear and convincing  
 2616 evidence that:

2617 (1) Such child's parent has unjustifiably failed to comply with a previously ordered plan  
 2618 designed to reunite the family;

2619 (2) An alleged dependent child has been removed from his or her home on at least two  
 2620 previous occasions and reunification services were made available on those occasions;

2621 (3) A ground for terminating parental rights exists; or

2622 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,  
 2623 making it unnecessary to provide reasonable efforts to reunify.

2624 (e) If the court has entered an order finding that reasonable efforts to reunify a child  
 2625 adjudicated as a dependent child with his or her family are not required but the court finds  
 2626 further that referral for termination of parental rights and adoption is not in the best  
 2627 interests of such child, the court may, upon proper petition, place such child in the custody  
 2628 of a permanent guardian pursuant to the provisions of this article.

2629 Part 11

2630 15-11-210.

2631 (a) If not held in conjunction with an adjudication hearing, a disposition hearing shall be  
 2632 held and completed within 30 days after the conclusion of an adjudication hearing.

2633 (b) The court may consider any evidence, including hearsay evidence, that the court finds  
 2634 to be relevant, reliable, and necessary to determine the needs of a child adjudicated as a  
 2635 dependent child and the most appropriate disposition.

2636 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2637 (1) The social study report, if applicable, made by DFCS and the child adjudicated as a  
 2638 dependent child's proposed written case plan. The social study report and case plan shall  
 2639 be filed with the court not less than 48 hours before the disposition hearing;

- 2640 (2) Any study or evaluation made by a guardian ad litem appointed by the court;  
 2641 (3) Any psychological, medical, developmental, or educational study or evaluation of the  
 2642 child adjudicated as a dependent child; and  
 2643 (4) Other relevant and material evidence as may be offered, including, but not limited  
 2644 to, the willingness of the caregiver to provide legal permanency for the child adjudicated  
 2645 as a dependent child if reunification is unsuccessful.
- 2646 (d) Prior to a disposition hearing, and upon request, the parties and their attorneys shall be  
 2647 afforded an opportunity to examine any written reports received by the court.
- 2648 (e)(1) Portions of written reports received by the court which are not relied on by the  
 2649 court in reaching its decision, which if revealed would be prejudicial to the interests of  
 2650 any party to the proceeding, or which reveal confidential sources, may be withheld in the  
 2651 court's discretion.
- 2652 (2) Parties and their attorneys shall be given the opportunity to controvert written reports  
 2653 received by the court and to cross-examine individuals making such reports.
- 2654 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the  
 2655 first periodic review hearing and the permanency plan hearing.
- 2656 15-11-211.
- 2657 (a) A diligent search shall be initiated at the outset of a case under this article and shall be  
 2658 conducted throughout the duration of a case, when appropriate.
- 2659 (b) A diligent search shall include at a minimum:
- 2660 (1) Interviews with the child's parent during the course of an investigation, while child  
 2661 protective services are provided, and while such child is in care;  
 2662 (2) Interviews with the child;  
 2663 (3) Interviews with identified relatives throughout the case;  
 2664 (4) Interviews with any other person who is likely to have information about the identity  
 2665 or location of the person being sought;  
 2666 (5) Comprehensive searches of data bases available to DFCS including, but not limited  
 2667 to, searches of employment, residence, utilities, vehicle registration, child support  
 2668 enforcement, law enforcement, corrections records, and any other records likely to result  
 2669 in identifying and locating the person being sought;  
 2670 (6) Appropriate inquiry during the course of hearings in the case; and  
 2671 (7) Any other reasonable means that are likely to identify relatives or other persons who  
 2672 have demonstrated an ongoing commitment to the child.
- 2673 (c) A diligent search shall be completed by DFCS before final disposition.

2674 (d) All adult relatives of the alleged dependent child identified in a diligent search required  
 2675 by this Code section, subject to exceptions due to family or domestic violence, shall be  
 2676 provided with notice:

2677 (1) Specifying that an alleged dependent child has been or is being removed from his or  
 2678 her parental custody;

2679 (2) Explaining the options a relative has to participate in the care and placement of the  
 2680 alleged dependent child and any options that may be lost by failing to respond to the  
 2681 notice;

2682 (3) Describing the process for becoming an approved foster family home and the  
 2683 additional services and supports available for children placed in approved foster homes;  
 2684 and

2685 (4) Describing any financial assistance for which a relative may be eligible.

2686 (e) The diligent search required by this Code section and the notification required by  
 2687 subsection (d) of this Code section shall be completed, documented in writing, and filed  
 2688 with the court within 30 days from the date on which the alleged dependent child was  
 2689 removed from his or her home.

2690 (f) After the completion of the diligent search required by this Code section, DFCS shall  
 2691 have a continuing duty to search for relatives or other persons who have demonstrated an  
 2692 ongoing commitment to a child and with whom it may be appropriate to place the alleged  
 2693 dependent child until such relatives or persons are found or until such child is placed for  
 2694 adoption unless the court excuses DFCS from conducting a diligent search.

2695 15-11-212.

2696 (a) The court may make any of the following orders of disposition or a combination of  
 2697 those best suited to the protection and physical, emotional, mental, and moral welfare of  
 2698 a child adjudicated as a dependent child:

2699 (1) Permit such child to remain with his or her parent, guardian, or legal custodian  
 2700 subject to conditions and limitations as the court prescribes, including supervision as  
 2701 directed by the court for the protection of such child;

2702 (2) Grant or transfer temporary legal custody to any of these persons or entities:

2703 (A) Any individual, including a biological parent, who, after study by the probation  
 2704 officer or other person or agency designated by the court, is found by the court to be  
 2705 qualified to receive and care for such child;

2706 (B) An agency or other private organization licensed or otherwise authorized by law  
 2707 to receive and provide care for such child;

2708 (C) Any public agency authorized by law to receive and provide care for such child;  
 2709 provided, however, that for the purpose of this Code section, the term 'public agency'  
 2710 shall not include DJJ; or

2711 (D) An individual in another state with or without supervision by an appropriate officer  
 2712 pursuant to the requirements of Code Section 39-4-4, the Interstate Compact on the  
 2713 Placement of Children;

2714 (3) Transfer jurisdiction over such child in accordance with the requirements of Code  
 2715 Section 39-4-4, the Interstate Compact on the Placement of Children;

2716 (4) Order such child and his or her parent, guardian, or legal custodian to participate in  
 2717 counseling or in counsel and advice as determined by the court. Such counseling and  
 2718 counsel and advice may be provided by the court, court personnel, probation officers,  
 2719 professional counselors or social workers, psychologists, physicians, physician assistants,  
 2720 qualified volunteers, or appropriate public, private, or volunteer agencies as directed by  
 2721 the court and shall be designed to assist in deterring future conditions of dependency or  
 2722 other conduct or conditions which would be harmful to a child or society;

2723 (5) Order the parent, guardian, or legal custodian of such child to participate in a court  
 2724 approved educational or counseling program designed to contribute to the ability of such  
 2725 parent, guardian, or legal custodian to provide proper parental care and supervision of  
 2726 such child, including, but not limited to, parenting classes;

2727 (6) Order DFCS to implement and such child's parent, guardian, or legal custodian to  
 2728 cooperate with any plan approved by the court; or

2729 (7) Order temporary child support for such child to be paid by that person or those  
 2730 persons determined to be legally obligated to support such child. In determining such  
 2731 temporary child support, the court shall apply the child support guidelines provided in  
 2732 Code Section 19-6-15 and the implementation and any review of the order shall be held  
 2733 as provided in Code Section 19-6-15. Where there is an existing order of a superior court  
 2734 or other court of competent jurisdiction, the court may order the child support obligor in  
 2735 the existing order to make payments to such child's caretaker on a temporary basis but  
 2736 shall not otherwise modify the terms of the existing order. A copy of the juvenile court's  
 2737 order shall be filed in the clerk's office of the court that entered the existing order.  
 2738 Temporary child support orders entered pursuant to this paragraph shall be enforceable  
 2739 by the court's contempt powers so long as the court is entitled to exercise jurisdiction over  
 2740 the dependency case.

2741 (b) The transfer of temporary legal custody may be subject to conditions and limitations  
 2742 the court may prescribe. Such conditions and limitations shall include a provision that the  
 2743 court shall approve or direct the return of the physical custody of a child adjudicated as a  
 2744 dependent child to his or her parent, guardian, or legal custodian either upon the occurrence

2745 of specified circumstances or at the direction of the court. The return of physical custody  
2746 of a child adjudicated as a dependent child to his or her parent, guardian, or legal custodian  
2747 may be made subject to conditions and limitations the court may prescribe, including, but  
2748 not limited to, supervision for the protection of such child.

2749 (c) A child adjudicated as a dependent child shall not be committed to or confined in an  
2750 institution or other facility designed or operated for the benefit of delinquent children  
2751 unless such child is also adjudicated to be a delinquent child and such child's detention is  
2752 warranted under the requirements of Article 6 of this chapter.

2753 (d) After transferring temporary legal custody of a child adjudicated as a dependent child  
2754 to DFCS, the court may at any time conduct sua sponte a judicial review of the current  
2755 placement plan being provided to such child. After its review, the court may order DFCS  
2756 to comply with the current placement plan, order DFCS to devise a new placement plan,  
2757 or make any other order relative to placement or custody outside DFCS as the court finds  
2758 to be in the best interests of such child. Placement or a change of custody by the court  
2759 outside DFCS shall relieve DFCS of further responsibility for such child except for any  
2760 provision of services ordered by the court to ensure the continuation of reunification  
2761 services to such child's family when appropriate.

2762 (e) A court shall not be required to make an order of disposition regarding a child who is  
2763 discharged from a facility in which such child was hospitalized or habilitated pursuant to  
2764 Chapter 3, 4, or 7 of Title 37 unless such child is to be discharged into the physical custody  
2765 of any person who had such custody when the court made its most recent adjudication that  
2766 the child was a dependent child.

2767 (f) If a child is adjudicated as a dependent child and the dependency is found to have been  
2768 the result of substance abuse by his or her parent, guardian, or legal custodian and the court  
2769 orders transfer of temporary legal custody of such child, the court shall be authorized to  
2770 further order that legal custody of such child may not be transferred back to his or her  
2771 parent, guardian, or legal custodian unless such parent, guardian, or legal custodian  
2772 undergoes substance abuse treatment and random substance abuse screenings and those  
2773 screenings remain negative for a period of no less than six consecutive months.

2774 (g) If the court finds that DFCS preventive or reunification efforts have not been  
2775 reasonable but that further efforts could not permit a child adjudicated as a dependent child  
2776 to safely remain at home, the court may nevertheless authorize or continue the removal of  
2777 such child.

2778 (h) When the case plan requires a concurrent permanency plan, the court shall review the  
2779 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which  
2780 a relative of a child adjudicated as a dependent child, foster parent, or other persons who

2781 have demonstrated an ongoing commitment to the child has agreed to provide a legally  
 2782 permanent home for such child in the event reunification efforts are not successful.

2783 15-11-213.

2784 Any order of disposition shall contain written findings of fact to support the disposition and  
 2785 case plan ordered. Before making an order of disposition, the court shall consider the  
 2786 following:

2787 (1) Why the best interests and safety of a child adjudicated as a dependent child are  
 2788 served by the disposition and case plan ordered, including but not limited to:

2789 (A) The interaction and interrelationship of such child with his or her parent, siblings,  
 2790 and any other person who may significantly affect the child's best interests;

2791 (B) Such child's adjustment to his or her home, school, and community;

2792 (C) The mental and physical health of all individuals involved;

2793 (D) The wishes of such child as to his or her placement;

2794 (E) The wishes of such child's parent, guardian, or legal custodian as to such child's  
 2795 custody;

2796 (F) Whether there exists a relative of such child or other individual who, after study by  
 2797 DFCS, is found to be qualified to receive and care for such child; and

2798 (G) The ability of a parent, guardian, or legal custodian of a child adjudicated as a  
 2799 dependent child to care for such child in the home so that no harm will result to such  
 2800 child;

2801 (2) The availability of services recommended in the case plan;

2802 (3) What alternative dispositions or services under the case plan were considered by the  
 2803 court and why such dispositions or services were not appropriate in the instant case;

2804 (4) The appropriateness of the particular placement made or to be made by the placing  
 2805 agency; and

2806 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of a child  
 2807 adjudicated as a dependent child's removal and to reunify his or her family after removal  
 2808 from the custody of his or her family unless reasonable efforts were not required. The  
 2809 court's findings should include a brief description of what preventive and reunification  
 2810 efforts were made and why further efforts could not have prevented or eliminated the  
 2811 necessity of such removal.

2812 15-11-214.

2813 (a) An order of disposition in a dependency proceeding shall continue in force until the  
 2814 purposes of the order have been accomplished.

2815 (b) The court may terminate an order of disposition of a child adjudicated as a dependent  
2816 child on or without an application of a party if it appears to the court that the purposes of  
2817 the order have been accomplished.

2818 (c) Unless a child remains in DFCS care or continues to receive services from DFCS,  
2819 when a child adjudicated as a dependent child reaches 18 years of age, all orders affecting  
2820 him or her then in force terminate and he or she shall be discharged from further obligation  
2821 or control.

2822 15-11-215.

2823 (a) Not less than five days in advance of any placement change, DFCS shall notify the  
2824 court, a child who is 14 years of age or older, the child's parent, guardian, or legal  
2825 custodian, the person or agency with physical custody of the child, the child's attorney, the  
2826 child's guardian ad litem, if any, and any other attorney of record of such change in the  
2827 location of the child's placement while the child is in DFCS custody.

2828 (b) If a child's health or welfare may be endangered by any delay in changing his or her  
2829 placement, the court and all attorneys of record shall be notified of such placement change  
2830 within 24 hours of such change.

2831 (c) A child adjudicated as a dependent child who is 14 years of age or older, his or her  
2832 parent, guardian, or legal custodian, the person or agency with physical custody of the  
2833 child, such child's attorney, such child's guardian ad litem, if any, and any attorney of  
2834 record may request a hearing pertaining to such child's case plan or the permanency plan  
2835 in order for the court to consider the change in the location of such child's placement and  
2836 any changes to the case plan or permanency plan resulting from such child's change in  
2837 placement location. The hearing shall be held within five days of receiving notice of a  
2838 change in the location of such child's placement and prior to any such placement change,  
2839 unless such child's health or welfare may be endangered by any delay in changing such  
2840 child's placement.

2841 (d) At the hearing to consider a child adjudicated as a dependent child's case plan and  
2842 permanency plan, the court shall consider the case plan and permanency plan  
2843 recommendations made by DFCS, including a recommendation as to the location of the  
2844 placement of such child, and shall make findings of fact upon which the court relied in  
2845 determining to reject or accept the case plan or permanency plan and the recommendations  
2846 made by DFCS, including the location of such child's placement.

2847 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS  
2848 recommendations were considered and explain why it did not follow such  
2849 recommendations. If the court rejects the DFCS case plan and permanency plan  
2850 recommendations, including the change in the location of the placement of a child

2851 adjudicated as a dependent child, the court may order DFCS to devise a new case plan and  
 2852 permanency plan recommendation, including a new recommendation as to the location of  
 2853 such child within the resources of the department, or make any other order relative to  
 2854 placement or custody outside the department as the court finds to be in the best interests  
 2855 of such child and consistent with the policy that children in DFCS custody should have  
 2856 stable placements.

2857 (f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS  
 2858 of further responsibility for a child adjudicated as a dependent child except for any  
 2859 provision of services ordered by the court to ensure the continuation of reunification  
 2860 services to such child's family when appropriate.

2861 15-11-216.

2862 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days  
 2863 following a child adjudicated as a dependent child's removal from his or her home and shall  
 2864 be conducted by the court. An additional periodic review shall be held within four months  
 2865 following the initial review and shall be conducted by the court or by judicial citizen  
 2866 review panels established by the court, as the court directs, meeting such standards and  
 2867 using such procedures as are established by court rule by the Supreme Court, with the  
 2868 advice and consent of the Council of Juvenile Court Judges. The court shall have the  
 2869 discretion to schedule any subsequent review hearings as necessary.

2870 (b) At any periodic review hearing, the paramount concern shall be a child adjudicated as  
 2871 a dependent child's health and safety.

2872 (c) At the initial 75 day periodic review, the court shall approve the completion of the  
 2873 relative search, schedule the subsequent four-month review to be conducted by the court  
 2874 or a citizen judicial review panel, and shall determine:

- 2875 (1) Whether a child adjudicated as a dependent child continues to be a dependent child;  
 2876 (2) Whether the existing case plan is still the best case plan for such child and his or her  
 2877 family and whether any changes need to be made to the case plan, including whether a  
 2878 concurrent case plan for nonreunification is appropriate;  
 2879 (3) The extent of compliance with the case plan by all participants;  
 2880 (4) The appropriateness of any recommended changes to such child's placement;  
 2881 (5) Whether appropriate progress is being made on the permanency plan;  
 2882 (6) Whether all legally required services are being provided to a child adjudicated as a  
 2883 dependent child, his or her foster parents if there are foster parents, and his or her parent,  
 2884 guardian, or legal custodian;

2885 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable  
2886 visitation schedule consistent with the age and developmental needs of a child  
2887 adjudicated as a dependent child;

2888 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,  
2889 the services needed to assist such child to make a transition from foster care to  
2890 independent living are being provided; and

2891 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity  
2892 of such child's removal from his or her home and to reunify the family after removal of  
2893 a child adjudicated as a dependent child, unless reasonable efforts were not required.

2894 (d) If at any review subsequent to the initial 75 day review the court finds that there is a  
2895 lack of substantial progress towards completion of the case plan, the court shall order  
2896 DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating  
2897 nonreunification.

2898 (e) At the time of each review of a child adjudicated as a dependent child in DFCS  
2899 custody, DFCS shall notify the court whether and when it intends to proceed with the  
2900 termination of parental rights.

2901 15-11-217.

2902 (a) In the event the periodic review of a case is conducted by a judicial citizen review  
2903 panel, the panel shall transmit its report and that of DFCS, including its findings and  
2904 recommendations together with DFCS proposed revised plan for reunification or other  
2905 permanency plan, if necessary, to the court and the parent within five days after the review.

2906 (b) DFCS shall provide the caregiver of a child adjudicated as a dependent child, his or her  
2907 foster parents if there are foster parents, and any preadoptive parents or relatives providing  
2908 care for such child with a copy of those portions of the report of the judicial citizen review  
2909 panel that involve the recommended permanency goal and the recommended services to  
2910 be provided to such child.

2911 (c) Any party may request a hearing on the proposed revised plan in writing within five  
2912 days after receiving a copy of the plan.

2913 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall  
2914 review the proposed revised plan and enter a supplemental order incorporating the revised  
2915 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,  
2916 after hearing evidence, enter a supplemental order incorporating all elements that the court  
2917 finds essential in the proposed revised plan.

2918 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen  
2919 review panel finds that there is a lack of substantial progress towards completion of the

2920 case plan, the court shall schedule a hearing within 30 days of such finding to determine  
 2921 whether a case plan for nonreunification is appropriate.

2922 (f) If the judicial citizen review panel determines that a parent of a child adjudicated as a  
 2923 dependent child has unjustifiably failed to comply with the ordered plan designed to reunite  
 2924 such child's family and that such failure is significant enough to warrant consideration of  
 2925 the parent's termination of parental rights, the panel may make a recommendation to DFCS  
 2926 and the attorney for such child that a petition for termination of parental rights should be  
 2927 prepared.

2928 15-11-218.

2929 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial  
 2930 citizen review panel, the court shall issue written findings of fact that include:

- 2931 (1) Why a child adjudicated as a dependent child continues to be a dependent child;  
 2932 (2) Whether the existing case plan is still the best case plan for a child adjudicated as a  
 2933 dependent child and his or her family and whether any changes need to be made to the  
 2934 case plan including whether a concurrent case plan for nonreunification is appropriate;  
 2935 (3) The extent of compliance with the case plan by all participants;  
 2936 (4) The basis for any changes to the placement of a child adjudicated as a dependent  
 2937 child;  
 2938 (5) Whether visitation is or continues to be appropriate;  
 2939 (6) A description of progress being made on the permanency plan;  
 2940 (7) Whether all legally required services are being provided to a child adjudicated as a  
 2941 dependent child, his or her foster parents if there are foster parents, and his or her parent,  
 2942 guardian, or legal custodian;  
 2943 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,  
 2944 the services needed to assist such child to make a transition from foster care to  
 2945 independent living are being provided; and  
 2946 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity  
 2947 of the removal of a child adjudicated as a dependent child and to reunify his or her family  
 2948 after removal, unless reasonable efforts were not required.

2949 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial  
 2950 citizen review panel, the court shall order one of the following dispositions:

- 2951 (1) Return a child adjudicated as a dependent child to his or her parent, guardian, or legal  
 2952 custodian's home with or without court imposed conditions;  
 2953 (2) Allow a child adjudicated as a dependent child to continue in the current custodial  
 2954 placement because the current placement is appropriate for such child's needs;

2955 (3) Allow a child adjudicated as a dependent child to continue in the current custodial  
 2956 placement although the current placement is no longer appropriate for such child's needs  
 2957 and direct DFCS to devise another plan which shall:

2958 (A) Be submitted within ten days for court approval;

2959 (B) Be furnished to all parties after court approval of the revised plan; and

2960 (C) Be provided to the caregiver of a child adjudicated as a dependent child, his or her  
 2961 foster parents if there are foster parents, and any preadoptive parents or relative  
 2962 providing care for such child with a copy of those portions of the court approved  
 2963 revised plan that involve the permanency goal and the services to be provided to such  
 2964 child; or

2965 (4) Make additional orders regarding the treatment plan or placement of a child  
 2966 adjudicated as a dependent child to protect such child's best interests if the court  
 2967 determines DFCS has failed in implementing any material provision of the case plan or  
 2968 abused its discretion in the placement or proposed placement of such child.

2969 Part 12

2970 15-11-230.

2971 (a) The court shall hold a permanency plan hearing to determine the future permanent legal  
 2972 status of each child in DFCS custody.

2973 (b) A permanency plan hearing, which considers in-state and out-of-state placement  
 2974 options for a child adjudicated as a dependent child, shall be held:

2975 (1) No later than 30 days after DFCS has submitted a written report to the court which  
 2976 does not contain a plan for reunification services;

2977 (2) For children under seven years of age at the time a petition is filed, no later than nine  
 2978 months after such child has entered foster care;

2979 (3) For children seven years of age and older at the time a petition is filed, no later than  
 2980 12 months after such child has entered foster care; or

2981 (4) For a child in a sibling group whose members were removed from the home at the  
 2982 same time and in which one member of the sibling group was under seven years of age  
 2983 at the time a petition for dependency was filed, the permanency plan hearing shall be held  
 2984 no later than nine months after such child has entered foster care.

2985 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing  
 2986 shall be held not less frequently than every six months during the time a child adjudicated  
 2987 as a dependent child continues in DFCS custody or more frequently as deemed necessary  
 2988 by the court until the court determines that such child's permanency plan and goal have  
 2989 been achieved.

2990 (d) A child adjudicated as a dependent child, his or her parent, guardian, or legal  
 2991 custodian, attorney, guardian ad litem, if any, foster parents if there are foster parents, any  
 2992 preadoptive parent or relatives providing care for such child, and other parties shall be  
 2993 given written notice of a permanency plan hearing at least five days in advance of such  
 2994 hearing and shall be advised that the permanency plan recommended by DFCS will be  
 2995 submitted to the court for consideration as the order of the court.

2996 (e) The court shall consult with the child adjudicated as a dependent child, in an  
 2997 age-appropriate manner, regarding the proposed permanency plan for such child.

2998 15-11-231.

2999 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's  
 3000 consideration a report recommending a permanency plan for a child adjudicated as a  
 3001 dependent child. The report shall include documentation of the steps to be taken by DFCS  
 3002 to finalize the permanent placement for such child and shall include, but not be limited to:

3003 (1) The name, address, and telephone number of such child's parent, guardian, or legal  
 3004 custodian;

3005 (2) The date on which such child was removed from his or her home and the date on  
 3006 which such child was placed in foster care;

3007 (3) The location and type of home or facility in which such child is currently held or  
 3008 placed and the location and type of home or facility in which such child will be placed;

3009 (4) The basis for the decision to hold such child in protective custody or to place such  
 3010 child outside of his or her home;

3011 (5) A statement as to the availability of a safe and appropriate placement with a fit and  
 3012 willing relative of such child or other persons who have demonstrated an ongoing  
 3013 commitment to a child or a statement as to why placement with the relative or other  
 3014 person is not safe or appropriate;

3015 (6) If as a result of the placement such child has been or will be transferred from the  
 3016 school in which such child is or most recently was enrolled, documentation that a  
 3017 placement that would maintain such child in that school is unavailable, inappropriate, or  
 3018 that such child's transfer to another school would be in such child's best interests;

3019 (7) A plan for ensuring the safety and appropriateness of the placement and a description  
 3020 of the services provided to meet the needs of such child and his or her family, including  
 3021 a discussion of services that have been investigated and considered and are not available  
 3022 or likely to become available within a reasonable time to meet the needs of such child or,  
 3023 if available, why such services are not safe or appropriate;

3024 (8) The goal of the permanency plan which shall include:

3025 (A) Whether and, if applicable, when such child shall be returned to his or her parent;

- 3026 (B) Whether and, if applicable, when such child shall be referred for termination of  
 3027 parental rights and adoption;
- 3028 (C) Whether and, if applicable, when such child shall be placed with a permanent  
 3029 guardian; or
- 3030 (D) In the case in which DFCS has documented a compelling reason that none of the  
 3031 foregoing options would be in the best interests of the child, whether, and if applicable,  
 3032 when such child shall be placed in another planned permanent living arrangement;
- 3033 (9) If a child adjudicated as a dependent child is 14 years of age or older, a description  
 3034 of the programs and services that are or will be provided to assist such child in preparing  
 3035 for the transition from foster care to independent living. The description shall include all  
 3036 of the following:
- 3037 (A) The anticipated age at which such child will be discharged from foster care;
- 3038 (B) The anticipated amount of time available in which to prepare such child for the  
 3039 transition from foster care to independent living;
- 3040 (C) The anticipated location and living situation of such child on discharge from foster  
 3041 care;
- 3042 (D) A description of the assessment processes, tools, and methods that have been or  
 3043 will be used to determine the programs and services that are or will be provided to  
 3044 assist such child in preparing for the transition from foster care to independent living;  
 3045 and
- 3046 (E) The rationale for each program or service that is or will be provided to assist such  
 3047 child in preparing for the transition from foster care to independent living, the time  
 3048 frames for delivering such programs or services, and the intended outcome of such  
 3049 programs or services; and
- 3050 (10) When the recommended permanency plan is referral for termination of parental  
 3051 rights and adoption or placement in another home, a description of specific recruitment  
 3052 efforts such as the use of state, regional, and national adoption exchanges, including  
 3053 electronic exchange systems, to facilitate orderly and timely in-state and interstate  
 3054 placements.
- 3055 15-11-232.
- 3056 (a) At the permanency plan hearing, the court shall make written findings of fact that  
 3057 include the following:
- 3058 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which  
 3059 is in effect at the time of the hearing;
- 3060 (2) The continuing necessity for and the safety and appropriateness of the placement;

- 3061 (3) Compliance with the permanency plan by DFCS, parties, and any other service  
3062 providers;
- 3063 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning  
3064 to meet the special needs of a child adjudicated as a dependent child and his or her parent,  
3065 guardian, or legal custodian;
- 3066 (5) Efforts to eliminate the causes for the placement of a child adjudicated as a dependent  
3067 child outside of his or her home and toward returning such child safely to his or her home  
3068 or obtaining a permanent placement for such child;
- 3069 (6) The date by which it is likely that a child adjudicated as a dependent child will be  
3070 returned to his or her home, placed for adoption, or placed with a permanent guardian or  
3071 in some other alternative permanent placement;
- 3072 (7) Whether, in the case of a child adjudicated as a dependent child placed out of state,  
3073 the out-of-state placement continues to be appropriate and in the best interests of such  
3074 child; and
- 3075 (8) In the case of a child adjudicated as a dependent child who is 14 years of age or  
3076 older, the services needed to assist such child to make a transition from foster care to  
3077 independent living.
- 3078 (b) The permanency plan incorporated in the court's order shall include:
- 3079 (1) Whether and, if applicable, when a child adjudicated as a dependent child shall be  
3080 returned to his or her parent;
- 3081 (2) Whether and, if applicable, when a child adjudicated as a dependent child shall be  
3082 referred for termination of parental rights and adoption;
- 3083 (3) Whether and, if applicable, when a child adjudicated as a dependent child shall be  
3084 placed with a permanent guardian; or
- 3085 (4) Whether there is a safe and appropriate placement with a fit and willing relative of  
3086 a child adjudicated as a dependent child or other persons who have demonstrated an  
3087 ongoing commitment to a child or a statement as to why placement with such relative or  
3088 other person is not safe or appropriate.
- 3089 (c) If the court finds that there is a compelling reason that it would not be in a child's best  
3090 interests to be returned to his or her parent, referred for termination of parental rights and  
3091 adoption, or placed with a permanent guardian, then the court's order shall document the  
3092 compelling reason and provide that such child should be placed in another planned  
3093 permanent living arrangement as defined in the court's order.
- 3094 (d) A supplemental order of the court adopting the permanency plan including all  
3095 requirements of the permanency plan as provided in Code Section 15-11-231 shall be  
3096 entered following the permanency hearing and in no case later than 30 days after the court  
3097 has determined that reunification efforts shall not be made by DFCS. The supplemental

3098 order shall include a requirement that the DFCS case manager and staff and, as appropriate,  
 3099 other representatives of a child adjudicated as a dependent child provide such child with  
 3100 assistance and support in developing a transition plan that is personalized at the direction  
 3101 of such child; includes specific options on housing, health insurance, education, local  
 3102 opportunities for mentors and continuing support services, and work force supports and  
 3103 employment services; and is as detailed as such child may elect in the 90 day period  
 3104 immediately prior to the date on which he or she will attain 18 years of age.

3105 15-11-233.

3106 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to  
 3107 terminate the parental rights of a parent of a child adjudicated as a dependent child or, if  
 3108 such a petition has been filed by another party, seek to be joined as a party to the petition,  
 3109 and, concurrently, to identify, recruit, process, and approve a qualified family for an  
 3110 adoption if:

3111 (1) A child adjudicated as a dependent child has been in foster care under the  
 3112 responsibility of DFCS for 15 of the most recent 22 months;

3113 (2) The court has made a determination that the parent has subjected his or her child to  
 3114 aggravated circumstances; or

3115 (3) The court has made a determination that the parent of a child adjudicated as a  
 3116 dependent child has been convicted of:

3117 (A) The murder of another child of such parent;

3118 (B) Voluntary manslaughter of another child of such parent;

3119 (C) Voluntary manslaughter of the other parent of such child;

3120 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3121 voluntary manslaughter of another child of such parent;

3122 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3123 voluntary manslaughter of the other parent of such child; or

3124 (F) Committing felony assault that has resulted in serious bodily injury to such child  
 3125 or to another child of such parent.

3126 (b) Termination of parental rights may not be in the best interests of a child adjudicated  
 3127 as a dependent child when:

3128 (1) Such child is being cared for by his or her relative;

3129 (2) The case plan documents a compelling reason for determining that filing such a  
 3130 petition would not be in the best interests of such child. Such compelling reasons may  
 3131 include, but not be limited to:

3132 (A) A parent of such child is successfully participating in services that will make it  
 3133 possible for his or her child to safely return home;

3134 (B) Another permanency plan is better suited to meet the health and safety needs of  
 3135 such child. Documentation that another permanent plan is better suited to meet the  
 3136 health and safety needs of such child may include documentation that:

3137 (i) Such child is 14 years of age or older and objects to termination of parental rights.

3138 Prior to accepting a child's objection, the court shall personally question such child  
 3139 in chambers to determine whether the objection is a voluntary and knowing choice;

3140 (ii) Such child is 16 years of age or older and specifically requests that emancipation  
 3141 be established as his or her permanent plan;

3142 (iii) The parent of such child and such child have a significant bond, but such parent  
 3143 is unable to care for such child because of an emotional or physical disability and  
 3144 such child's caregiver has committed to raising such child to the age of majority and  
 3145 facilitating visitation with such disabled parent; or

3146 (iv) Such child is in a residential treatment facility that provides services specifically  
 3147 designed to address his or her treatment needs and the court determines that his or her  
 3148 needs could not be served by a less restrictive placement;

3149 (C) Such child is living with his or her relative who is unable or unwilling to adopt  
 3150 such child, but who is willing and capable of providing such child with a stable and  
 3151 permanent home environment and the removal of such child from the physical custody  
 3152 of his or her relative would be detrimental to such child's emotional well-being;

3153 (D) The court or judicial citizen review panel, in a prior hearing or review, determined  
 3154 that while the case plan was to reunify the family, DFCS did not make reasonable  
 3155 efforts; or

3156 (E) Such child is an unaccompanied refugee or there are international legal obligations  
 3157 or foreign policy reasons that would preclude terminating parental rights; or

3158 (3) DFCS has not provided to the family of such child services deemed necessary for his  
 3159 or her safe return to his or her home, consistent with the specific time frames for the  
 3160 accomplishment of the case plan goals.

3161 (c) The recommendation by DFCS that termination of parental rights is not in the best  
 3162 interests of a child shall be based on the present family circumstances of such child and  
 3163 shall not preclude a different recommendation at a later date if the family circumstances  
 3164 of a child adjudicated as a dependent child change.

3165 Part 13

3166 15-11-240.

3167 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,  
 3168 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a

3169 child adjudicated as a dependent child in accordance with this article. Prior to the entry of  
 3170 such an order, the court shall:

3171 (1) Find that reasonable efforts to reunify such child with his or her parents would be  
 3172 detrimental to such child or find that the living parents of such child have consented to  
 3173 the permanent guardianship;

3174 (2) Find that termination of parental rights and adoption is not in the best interests of  
 3175 such child;

3176 (3) Find that the proposed permanent guardian can provide a safe and permanent home  
 3177 for such child;

3178 (4) Find that the appointment of a permanent guardian for such child is in the best  
 3179 interests of such child and that the individual chosen as such child's permanent guardian  
 3180 is the individual most appropriate to be such child's permanent guardian taking into  
 3181 consideration the best interests of the child; and

3182 (5) If such child is 14 years of age or older, find that the appointment of a permanent  
 3183 guardian for such child is in the best interests of such child and that the individual chosen  
 3184 by such child as the child's permanent guardian is the individual most appropriate to be  
 3185 such child's permanent guardian taking into consideration the best interests of the child.

3186 (b) The court may enter an order of support on behalf of a child against the parents of such  
 3187 child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

3188 15-11-241.

3189 The petition for the appointment of a permanent guardian pursuant to this part shall set  
 3190 forth:

3191 (1) The facts upon which the court's jurisdiction is based;

3192 (2) The name and date of birth of the child adjudicated as a dependent child;

3193 (3) The name, address, and county of domicile of the petitioner and the petitioner's  
 3194 relationship to such child, if any, and, if different from the petitioner, the name, address,  
 3195 and county of domicile of the individual nominated by the petitioner to serve as guardian  
 3196 and that individual's relationship to such child, if any;

3197 (4) A statement that:

3198 (A) Reasonable efforts to reunify such child with his or her parents would be  
 3199 detrimental to such child;

3200 (B) Termination of parental rights and adoption is not in the best interests of such  
 3201 child;

3202 (C) The proposed guardian can provide a safe and permanent home for such child;

3203 (D) The appointment of a permanent guardian for such child is in the best interests of  
 3204 such child and that the individual chosen as such child's guardian is the individual most

3205 appropriate to be such child's permanent guardian taking into consideration the best  
 3206 interests of the child; and  
 3207 (E) If such child is 14 years of age or older, that the appointment of a permanent  
 3208 guardian for such child is in the best interests of the child and that the individual chosen  
 3209 by such child as the child's permanent guardian is the most appropriate individual to be  
 3210 such child's permanent guardian taking into consideration the best interests of the child;  
 3211 (5) Whether such child was born out of wedlock and, if so, the name and address of the  
 3212 biological father, if known;  
 3213 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed  
 3214 document made by a parent of such child that deals with the guardianship of such child  
 3215 and the name and address of any designee named in the document;  
 3216 (7) In addition to the petitioner and the nominated guardian and, if the parent of such  
 3217 child has not consented to the permanent guardianship, the names and addresses of the  
 3218 following relatives of such child whose parents' whereabouts are known:  
 3219 (A) The adult siblings of such child; provided, however, that not more than three adult  
 3220 siblings need to be listed;  
 3221 (B) If there is no adult sibling of such child, the grandparents of such child; provided,  
 3222 however, that not more than three grandparents need to be listed; or  
 3223 (C) If there is no grandparent of such child, any three of the nearest adult relatives of  
 3224 such child determined according to Code Section 53-2-1;  
 3225 (8) Whether a temporary guardian has been appointed for such child or a petition for the  
 3226 appointment of a temporary guardian has been filed or is being filed; and  
 3227 (9) The reason for any omission in the petition for appointment of a permanent guardian  
 3228 for such child in the event full particulars are lacking.

3229 15-11-242.

3230 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:  
 3231 (1) Remain in effect until the child adjudicated as a dependent child reaches the age of  
 3232 18 or becomes emancipated;  
 3233 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;  
 3234 and  
 3235 (3) Establish a reasonable visitation schedule which allows the child adjudicated as a  
 3236 dependent child to maintain meaningful contact with his or her parents through personal  
 3237 visits, telephone calls, letters, or other forms of communication or specifically include  
 3238 any restriction on a parent's right to visitation.

3239 (b) A permanent guardian shall have the rights and duties of a permanent guardian as  
 3240 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required  
 3241 of a guardian as provided in Code Section 29-2-24.

3242 15-11-243.

3243 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with  
 3244 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the  
 3245 guardianship, notice of the petition shall not be required to be given to:

3246 (1) The adult siblings of the child who was adjudicated as a dependent child;

3247 (2) The grandparents of the child who was adjudicated as a dependent child; or

3248 (3) The nearest adult relatives of the child who was adjudicated as a dependent child as  
 3249 determined in accordance with Code Section 53-2-1.

3250 (b) The hearing shall be conducted in accordance with Code Section 29-2-18 to determine  
 3251 the best interests of the child who was adjudicated as a dependent child, and in reaching  
 3252 its determination the court shall consider Code Section 15-11-240.

3253 15-11-244.

3254 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole  
 3255 purpose of entering an order following the filing of a petition to modify, vacate, or revoke  
 3256 the guardianship and appoint a new guardian.

3257 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification  
 3258 of any child support or visitation order entered pursuant to Code Section 15-11-240.

3259 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear  
 3260 and convincing evidence, that there has been a material change in the circumstances of the  
 3261 child who was adjudicated as a dependent child or the guardian and that such modification,  
 3262 vacation, or revocation of the guardianship order and the appointment of a new guardian  
 3263 is in the best interests of the child. Appointment of a new guardian shall be subject to the  
 3264 provisions of Code Sections 15-11-240 and 15-11-241.

3265 ARTICLE 4

3266 Part 1

3267 15-11-260.

3268 (a) The purpose of this article is:

3269 (1) To protect a child who has been adjudicated as a dependent child from his or her  
 3270 parent who is unwilling or unable to provide safety and care adequate to meet such child's

3271 physical, emotional, and mental health needs by providing a judicial process for the  
 3272 termination of all parental rights and responsibilities;

3273 (2) To eliminate the need for a child who has been adjudicated as a dependent child to  
 3274 wait unreasonable periods of time for his or her parent to correct the conditions which  
 3275 prevent his or her return to the family;

3276 (3) To ensure that the continuing needs of a child who has been alleged or adjudged to  
 3277 be a dependent child for proper physical, mental, and emotional growth and development  
 3278 are the decisive considerations in all proceedings;

3279 (4) To ensure that the constitutional rights of all parties are recognized and enforced in  
 3280 all proceedings conducted pursuant to this article while ensuring that the fundamental  
 3281 needs of a child are not subjugated to the interests of others; and

3282 (5) To encourage stability in the life of a child who has been adjudicated as a dependent  
 3283 child and has been removed from his or her home by ensuring that all proceedings are  
 3284 conducted expeditiously to avoid delays in resolving the status of the parent and in  
 3285 achieving permanency for such child.

3286 (b) Nothing in this article shall be construed as affecting the rights of a parent who is not  
 3287 the subject of the proceedings.

3288 15-11-261.

3289 (a) An order terminating the parental rights of a parent shall be without limit as to duration  
 3290 and shall divest the parent and his or her child of all legal rights, powers, privileges,  
 3291 immunities, duties, and obligations with respect to each other, except:

3292 (1) The right of such child to receive child support from his or her parent until a final  
 3293 order of adoption is entered;

3294 (2) The right of such child to inherit from and through his or her parent. The right of  
 3295 inheritance of such child shall be terminated only by a final order of adoption; and

3296 (3) The right of such child to pursue any civil action against his or her parent.

3297 (b) When an order terminating the parent and child relationship has been issued, the parent  
 3298 whose right has been terminated shall not thereafter be entitled to notice of proceedings for  
 3299 the adoption of his or her child by another, nor has the parent any right to object to the  
 3300 adoption or otherwise to participate in such proceedings.

3301 (c) The relationship between a child and his or her siblings shall not be severed until that  
 3302 relationship is terminated by final order of adoption.

3303 (d) A relative whose relationship to a child is derived through the parent whose parental  
 3304 rights are terminated shall be considered to be a relative of such child for purposes of  
 3305 placement of, and permanency plan for, such child until such relationship is terminated by  
 3306 final order of adoption.

- 3307 15-11-262.
- 3308 (a) A child and any other party to a proceeding under this article shall have the right to an  
3309 attorney at all stages of the proceedings under this article.
- 3310 (b) The court shall appoint an attorney for a child in a termination of parental rights  
3311 proceeding. The appointment shall be made as soon as practicable to ensure adequate  
3312 representation of such child and, in any event, before the first court hearing that may  
3313 substantially affect the interests of such child.
- 3314 (c) A child's attorney owes to a child the duties imposed by the law of this state in an  
3315 attorney-client relationship.
- 3316 (d) The court may appoint a guardian ad litem for a child in a termination proceeding at  
3317 the request of such child's attorney or upon the court's own motion if it determines that a  
3318 guardian ad litem is necessary to assist the court in determining the best interests of such  
3319 child; provided, however, that such guardian ad litem may be the same person as the child's  
3320 attorney unless or until there is a conflict of interest between the attorney's duty to such  
3321 child as such child's attorney and the attorney's considered opinion of such child's best  
3322 interests as guardian ad litem.
- 3323 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be  
3324 the same role as provided for in all dependency proceedings under Article 3 of this chapter.
- 3325 (f) If an attorney has been appointed to represent a child in a prior proceeding under this  
3326 chapter, the court, when possible, shall appoint the same attorney to represent such child  
3327 in any subsequent proceeding.
- 3328 (g) An attorney appointed to represent a child in a termination proceeding shall continue  
3329 the representation in any subsequent appeals unless excused by the court.
- 3330 (h) Unless authorized by the court, neither a child or a representative of a child may waive  
3331 the right to any attorney in a termination proceeding.
- 3332 (i) A party other than a child shall be informed of his or her right to an attorney prior to  
3333 the adjudication hearing and prior to any other hearing at which a party could be subjected  
3334 to the loss of residual parental rights. A party other than a child shall be given an  
3335 opportunity to:
- 3336 (1) Obtain and employ an attorney of the party's own choice;
- 3337 (2) To obtain a court appointed attorney if the court determines that the party is an  
3338 indigent person; or
- 3339 (3) Waive the right to an attorney.

3340 15-11-263.

3341 (a) Upon motion of any party or the court, the court may require a physical or mental  
 3342 evaluation of a child adjudicated as a dependent child or his or her parent, stepparent,  
 3343 guardian, or legal custodian.

3344 (b) The cost of any ordered evaluation shall be paid by the moving party unless  
 3345 apportioned by the court, in its discretion, to any other party or parties.

3346 15-11-264.

3347 (a) In all cases under this article, any party shall, upon written request to the party having  
 3348 actual custody, control, or possession of the material to be produced, have full access to the  
 3349 following for inspection, copying, or photographing:

3350 (1) The names and telephone numbers of each witness likely to be called to testify at the  
 3351 hearing by another party;

3352 (2) A copy of any formal written statement made by the child adjudicated as a dependent  
 3353 child or any witness that relates to the subject matter concerning the testimony of the  
 3354 witness that a party intends to call as a witness at the hearing;

3355 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or  
 3356 other report which is intended to be introduced at any hearing or that pertains to physical  
 3357 evidence which is intended to be introduced;

3358 (4) Any drug screen concerning the child adjudicated as a dependent child or his or her  
 3359 parent, guardian, or legal custodian;

3360 (5) Any case plan concerning the child adjudicated as a dependent child or his or her  
 3361 parent, guardian, or legal custodian;

3362 (6) Any visitation schedule related to the child who is adjudicated as a dependent child;

3363 (7) Photographs and any physical evidence which are intended to be introduced at any  
 3364 hearing;

3365 (8) Copies of the police incident report regarding an occurrence which forms part or all  
 3366 of the basis of the petition; and

3367 (9) Any other relevant evidence not requiring consent or a court order under  
 3368 subsection (b) of this Code section.

3369 (b) Upon presentation of a court order or written consent from the appropriate person or  
 3370 persons permitting access to the party having actual custody, control, or possession of the  
 3371 material to be produced, any party shall have access to the following for inspection,  
 3372 copying, or photographing:

3373 (1) Any psychological, developmental, physical, mental or emotional health, or other  
 3374 assessments of the child adjudicated as a dependent child or the family, parent, guardian,  
 3375 or legal custodian of such child;

- 3376 (2) Any school record concerning the child adjudicated as a dependent child;  
 3377 (3) Any medical record concerning the child adjudicated as a dependent child;  
 3378 (4) Transcriptions, recordings, and summaries of any oral statement of the child  
 3379 adjudicated as a dependent child or of any witness, except child abuse reports that are  
 3380 confidential pursuant to Code Section 19-7-5 and work product of counsel;  
 3381 (5) Any family team meeting report or multidisciplinary team meeting report concerning  
 3382 the child adjudicated as a dependent child or his or her parent, guardian, or legal  
 3383 custodian;  
 3384 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all  
 3385 of the basis of the petition; and  
 3386 (7) Immigration records concerning the child adjudicated as a dependent child.  
 3387 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this  
 3388 Code section, it shall be the duty of such party to promptly make the following available  
 3389 for inspection, copying, or photographing to every other party:  
 3390 (1) The names and last known addresses and telephone numbers of each witness to the  
 3391 occurrence which forms the basis of the party's defense or claim;  
 3392 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
 3393 pertains to physical evidence which is intended to be introduced;  
 3394 (3) Photographs and any physical evidence which are intended to be introduced at the  
 3395 hearing; and  
 3396 (4) A copy of any written statement made by any witness that relates to the subject  
 3397 matter concerning the testimony of the witness that the party intends to call as a witness.  
 3398 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
 3399 not later than five days after the request is received or 72 hours prior to any hearing except  
 3400 when later compliance is made necessary by the timing of the request. If the request for  
 3401 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery  
 3402 response shall be produced in a timely manner. If, subsequent to providing a discovery  
 3403 response in compliance with this Code section, the existence of additional evidence is  
 3404 found, it shall be promptly provided to the party making the discovery request.  
 3405 (e) If a request for discovery or consent for release is refused, application may be made to  
 3406 the court for a written order granting discovery. Motions for discovery shall certify that  
 3407 a request for discovery or consent was made and was unsuccessful despite good faith  
 3408 efforts made by the requesting party. An order granting discovery shall require reciprocal  
 3409 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the  
 3410 court may deny, in whole or in part, or otherwise limit or set conditions concerning the  
 3411 discovery response upon a sufficient showing by a person or entity to whom a request for  
 3412 discovery is made that disclosure of the information would:

- 3413 (1) Jeopardize the safety of a party, witness, or confidential informant;  
 3414 (2) Create a substantial threat of physical or economic harm to a witness or other person;  
 3415 (3) Endanger the existence of physical evidence;  
 3416 (4) Disclose privileged information; or  
 3417 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or  
 3418 the prosecution of an adult charged with an offense arising from the same transaction or  
 3419 occurrence.
- 3420 (f) No deposition shall be taken of a child adjudicated as a dependent child unless the court  
 3421 orders the deposition, under such conditions as the court may order, on the ground that the  
 3422 deposition would further the purposes of this part.
- 3423 (g) If at any time during the course of the proceedings it is brought to the attention of the  
 3424 court that a person or entity has failed to comply with an order issued pursuant to this Code  
 3425 section, the court may grant a continuance, prohibit the party from introducing in evidence  
 3426 the information not disclosed, or enter such other order as the court deems just under the  
 3427 circumstances.
- 3428 (h) Nothing contained in this Code section shall prohibit the court from ordering the  
 3429 disclosure of any information that the court deems necessary for proper adjudication.
- 3430 (i) Any material or information furnished to a party pursuant to this Code section shall  
 3431 remain in the exclusive custody of the party and shall only be used during the pendency of  
 3432 the case and shall be subject to such other terms and conditions as the court may provide.
- 3433 15-11-265.
- 3434 Once a petition to terminate parental rights has been filed, the parent of a child adjudicated  
 3435 as a dependent child shall thereafter be without authority to execute an act of surrender or  
 3436 otherwise to affect the custody of his or her child except such parent may:
- 3437 (1) Execute an act of surrender in favor of the department; and  
 3438 (2) Consent to a judgment terminating his or her parental rights.

3439 Part 2

- 3440 15-11-270.
- 3441 (a) A proceeding under this article shall be commenced in the county that has jurisdiction  
 3442 over the related dependency proceedings.
- 3443 (b) For the convenience of the parties, the court may transfer proceedings to the county in  
 3444 which the parent of a child adjudicated as a dependent child legally resides. If a proceeding  
 3445 is transferred, certified copies of all legal and social documents and records pertaining to  
 3446 the proceeding on file with the clerk of court shall accompany the transfer.

Part 3

3447

3448 15-11-280.

3449 (a) A petition to terminate parental rights and all subsequent court documents in such  
 3450 proceeding shall be entitled 'In the interest of \_\_\_\_\_, a child.', except upon appeal, in which  
 3451 event the anonymity of a child shall be preserved by use of appropriate initials. The  
 3452 petition shall be in writing.

3453 (b) The petition to terminate parental rights shall be made, verified, and endorsed by the  
 3454 court as provided in Article 3 of this chapter for a petition alleging dependency.

3455 (c) A petition to terminate parental rights shall:

3456 (1) State clearly that an order for termination of parental rights is requested and that the  
 3457 effect of the order will conform to Code Section 15-11-261;

3458 (2) State the statutory ground, as provided in Code Section 15-11-310, on which the  
 3459 petition is based; and

3460 (3) Set forth plainly and with particularity:

3461 (A) The facts which bring a child within the jurisdiction of the court, with a statement  
 3462 that it is in the best interests of such child and the public that the proceeding be brought;

3463 (B) The name, age, date of birth, and residence address of the child named in the  
 3464 petition;

3465 (C) The name and residence address of the parent, guardian, or legal custodian of such  
 3466 child; or, if the parent, guardian, or legal custodian of the child named in the petition  
 3467 to terminate parental rights does not reside or cannot be found within the state or if such  
 3468 place of residence address is unknown, the name of any known adult relative of such  
 3469 child residing within the county or, if there is none, the known adult relative of such  
 3470 child residing nearest to the location of the court;

3471 (D) Whether the child named in the petition is in protective custody and, if so, the  
 3472 place of his or her foster care and the time such child was taken into protective custody;  
 3473 and

3474 (E) Whether any of the information required by this paragraph is unknown.

3475 (d) When a petition to terminate parental rights seeks termination of the rights of a  
 3476 biological father who is not the legal father and who has not surrendered his rights to his  
 3477 child, the petition shall include a certificate from the putative father registry disclosing the  
 3478 name, address, and social security number of any registrant acknowledging paternity of the  
 3479 child named in the petition or indicating the possibility of paternity of a child of the child's  
 3480 mother for a period beginning no more than two years immediately preceding such child's  
 3481 date of birth. The certificate shall document a search of the registry on or after the date of

3482 the filing of the petition and shall include a statement that the registry is current as to filings  
3483 of registrants as of the date of the petition or as of a date later than the date of the petition.  
3484 (e) A copy of a voluntary surrender or written consent, if any, previously executed by a  
3485 parent of the child named in the petition to terminate parental rights shall be attached to the  
3486 petition.

3487 15-11-281.

3488 (a) The court shall direct the issuance of a summons to the mother, legal father or  
3489 biological father, guardian, legal custodian, attorney, and guardian ad litem, if any, of the  
3490 child named in the petition to terminate parental rights and any other persons who appear  
3491 to the court to be proper or necessary parties to the proceeding, requiring them to appear  
3492 before the court at the time fixed to answer the allegations of the petition. A copy of such  
3493 petition shall accompany the summons unless the summons is served by publication, in  
3494 which case the published summons shall indicate the general nature of the allegations and  
3495 where a copy of such petition can be obtained.

3496 (b) The court shall direct notice and a copy of the petition be provided to the child named  
3497 in the petition if the child is 14 years of age or older.

3498 (c) The summons shall include the notice of effect of a termination judgment as set forth  
3499 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the  
3500 proceedings and that the court will appoint an attorney if the party is an indigent person.

3501 (d) The court may endorse upon the summons an order directing the parent, guardian, or  
3502 legal custodian of the child named in the petition to appear personally at the hearing or  
3503 directing the person having the physical custody or control of such child to bring such child  
3504 to the hearing.

3505 (e) A party other than the child named in the petition may waive service of summons by  
3506 written stipulation or by voluntary appearance at the hearing.

3507 15-11-282.

3508 (a) If a party to be served with a summons is within this state and can be found, the  
3509 summons shall be served upon him or her personally as soon as possible and at least 30  
3510 days before the termination of parental rights hearing.

3511 (b) If a party to be served is within this state and cannot be found but his or her address is  
3512 known or can be ascertained with due diligence, the summons shall be served upon such  
3513 party at least 30 days before the termination of parental rights hearing by mailing him or  
3514 her a copy by registered or certified mail or statutory overnight delivery, return receipt  
3515 requested.

3516 (c) If a party to be served is outside this state but his or her address is known or can be  
3517 ascertained with due diligence, service of the summons shall be made at least 30 days  
3518 before the termination of parental rights hearing either by delivering a copy to such party  
3519 personally or by mailing a copy to him or her by registered or certified mail or statutory  
3520 overnight delivery, return receipt request.

3521 (d) If, after due diligence, a party to be served with a summons cannot be found and such  
3522 party's address cannot be ascertained, whether he or she is within or outside this state, the  
3523 court may order service of the summons upon him or her by publication. The termination  
3524 of parental rights hearing shall not be earlier than 31 days after the date of the last  
3525 publication.

3526 (e)(1) Service by publication shall be made once a week for four consecutive weeks in  
3527 the legal organ of the county where the petition to terminate parental rights has been filed.  
3528 Service shall be deemed complete upon the date of the last publication.

3529 (2) When served by publication, the notice shall contain the names of the parties, except  
3530 that the anonymity of a child shall be preserved by the use of appropriate initials, and the  
3531 date the petition to terminate parental rights was filed. The notice shall indicate the  
3532 general nature of the allegations and where a copy of the petition to terminate parental  
3533 rights can be obtained and require the party to be served by publication to appear before  
3534 the court at the time fixed to answer the allegations of the petition to terminate parental  
3535 rights.

3536 (3) The petition to terminate parental rights shall be available to the parent whose rights  
3537 are sought to be terminated free of charge from the court during business hours or, upon  
3538 request, shall be mailed to such parent.

3539 (4) Within 15 days after the filing of the order of service by publication, the clerk of  
3540 court shall mail a copy of the notice, a copy of the order of service by publication, and  
3541 a copy of the petition to terminate parental rights to the absent parent's last known  
3542 address.

3543 (f) Service of the summons may be made by any suitable person under the direction of the  
3544 court.

3545 (g) The court may authorize the payment from county funds of the costs of service and of  
3546 necessary travel expenses incurred by persons summoned or otherwise required to appear  
3547 at the hearing.

3548 15-11-283.

3549 (a) Unless he has surrendered all parental rights to his child, a summons shall be served  
3550 on the legal father of a child named in the petition brought pursuant to this article or the  
3551 biological father:

- 3552 (1) Whose paternity has been previously established in a judicial proceeding to which  
 3553 the father was a party;
- 3554 (2) Whose identity is known to the petitioner or the petitioner's attorney;
- 3555 (3) Who is a registrant on the putative father registry and has acknowledged paternity of  
 3556 the child named in the petition brought pursuant to this article;
- 3557 (4) Who is a registrant on the putative father registry who has indicated possible  
 3558 paternity of the child named in the petition brought pursuant to this article that was born  
 3559 to such child's mother during a period beginning no more than two years immediately  
 3560 preceding such child's date of birth; or
- 3561 (5) Who, if the court finds from the evidence including but not limited to the affidavit  
 3562 of the mother of a child named in the petition brought pursuant to this article, has  
 3563 performed any of the following acts:
- 3564 (A) Lived with such child;
- 3565 (B) Contributed to such child's support;
- 3566 (C) Made any attempt to legitimate such child; or
- 3567 (D) Provided support or medical care for such mother either during her pregnancy or  
 3568 during her hospitalization for the birth of such child.
- 3569 (b) Notice shall be given to the biological father or legal father by the following methods:
- 3570 (1) If the biological father or legal father is within this state and can be found, the  
 3571 summons shall be served upon him personally as soon as possible and least 30 days  
 3572 before the termination of parental rights hearing;
- 3573 (2) If the biological father or legal father is outside this state but his address is known or  
 3574 can be ascertained with due diligence, service of summons shall be made at least 30 days  
 3575 before the termination of parental rights hearing either by delivering a copy to him  
 3576 personally or by mailing a copy to him by registered or certified mail or statutory  
 3577 overnight delivery, return receipt requested; or
- 3578 (3) If, after due diligence, the biological father or legal father to be served with summons  
 3579 cannot be found and his address cannot be ascertained, whether he is within or outside  
 3580 this state, the court may order service of summons upon him by publication. The  
 3581 termination of parental rights hearing shall not be earlier than 31 days after the date of the  
 3582 last publication. Service by publication shall be as follows:
- 3583 (A) Service by publication shall be made once a week for four consecutive weeks in  
 3584 the legal organ of the county where the petition to terminate parental rights has been  
 3585 filed and of the county of the biological father's last known address. Service shall be  
 3586 deemed complete upon the date of the last publication;
- 3587 (B) When served by publication, the notice shall contain the names of the parties,  
 3588 except that the anonymity of a child shall be preserved by the use of appropriate initials.

3589 and the date the petition to terminate parental rights was filed. The notice shall indicate  
 3590 the general nature of the allegations and where a copy of the petition to terminate  
 3591 parental rights can be obtained and require the biological father or legal father to appear  
 3592 before the court at the time fixed to answer the allegations of the petition to terminate  
 3593 parental rights;

3594 (C) The petition to terminate parental rights shall be available to the biological father  
 3595 or legal father whose rights are sought to be terminated free of charge from the court  
 3596 during business hours or, upon request, shall be mailed to the biological father or legal  
 3597 father; and

3598 (D) Within 15 days after the filing of the order of service by publication, the clerk of  
 3599 court shall mail a copy of the notice, a copy of the order of service by publication, and  
 3600 a copy of the petition to terminate parental rights to the biological father's or legal  
 3601 father's last known address.

3602 (c) The notice shall advise the biological father who is not the legal father that he may lose  
 3603 all rights to the child named in a petition brought pursuant to this article and will not be  
 3604 entitled to object to the termination of his rights to such child unless, within 30 days of  
 3605 receipt of notice, he files:

3606 (1) A petition to legitimate such child; and

3607 (2) Notice of the filing of the petition to legitimate with the court in which the  
 3608 termination of parental rights proceeding is pending.

3609 (d) If the identity of the biological father whose rights are sought to be terminated is not  
 3610 known to the petitioner or the petitioner's attorney and the biological father would not be  
 3611 entitled to notice in accordance with subsection (a) of this Code section, then it shall be  
 3612 rebuttably presumed that he is not entitled to notice of the proceedings. The court shall be  
 3613 authorized to require the mother to execute an affidavit supporting the presumption or show  
 3614 cause before the court if she refuses. Absent evidence rebutting the presumption, no  
 3615 further inquiry or notice shall be required by the court, and the court may enter an order  
 3616 terminating the rights of the biological father.

3617 (e) The court may enter an order terminating all the parental rights of a biological father,  
 3618 including any right to object thereafter to such proceedings:

3619 (1) Who fails to file a timely petition to legitimate the child named in a petition brought  
 3620 pursuant to this article and notice in accordance with subsection (c) of this Code section;

3621 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

3622 (3) Whose petition to legitimate does not result in a court order finding that he is the  
 3623 legal father of the child named in a petition brought pursuant to this article.

3624 15-11-284.

3625 The notice required to be given to the mother, the biological father, and legal father of the  
3626 child shall state:

3627 'NOTICE OF EFFECT OF TERMINATION JUDGMENT

3628 Georgia law provides that you can permanently lose your rights as a parent. A petition  
3629 to terminate parental rights has been filed requesting the court to terminate your parental  
3630 rights to your child. A copy of the petition to terminate parental rights is attached to this  
3631 notice. A court hearing of your case has been scheduled for the \_\_\_\_\_ day of  
3632 \_\_\_\_\_, \_\_\_\_\_, at (time of day), at the \_\_\_\_\_ Court of \_\_\_\_\_ County.

3633 If you fail to appear, the court can terminate your rights in your absence.

3634 If the court at the trial finds that the facts set out in the petition to terminate parental  
3635 rights are true and that termination of your rights will serve the best interests of your  
3636 child, the court can enter a judgment ending your rights to your child.

3637 If the judgment terminates your parental rights, you will no longer have any rights to your  
3638 child. This means that you will not have the right to visit, contact, or have custody of  
3639 your child or make any decisions affecting your child or your child's earnings or property.

3640 Your child will be legally freed to be adopted by someone else.

3641 Even if your parental rights are terminated:

3642 (1) You will still be responsible for providing financial support (child support payments)  
3643 for your child's care unless and until your child is adopted; and

3644 (2) Your child can still inherit from you unless and until your child is adopted.

3645 This is a very serious matter. You should contact an attorney immediately so that you  
3646 can be prepared for the court hearing. You have the right to hire an attorney and to have  
3647 him or her represent you. If you cannot afford to hire an attorney, the court will appoint  
3648 an attorney if the court finds that you are an indigent person. Whether or not you decide  
3649 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses  
3650 on your behalf, and to question those witnesses brought against you.

3651 If you have any questions concerning this notice, you may call the telephone number of  
3652 the clerk's office which is \_\_\_\_\_.'

3653 15-11-285.

3654 (a) If any person named in and properly served with a summons shall without reasonable  
3655 cause fail to appear or, when directed in the summons, to bring the child named in the  
3656 petition pursuant to this article before the court, then the court may issue a rule nisi against  
3657 the person, directing the person to appear before the court to show cause why he or she  
3658 should not be held in contempt of court.

3659 (b) If a summons cannot be served or if the person to whom the summons is directed fails  
 3660 to obey it, the court may issue an order to take the child named in the petition pursuant to  
 3661 this article into protective custody.

3662 Part 4

3663 15-11-300.

3664 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice  
 3665 of the date, time, place, and purpose of the hearing to the caregiver of the child at issue, the  
 3666 foster parents of such child, if any, any preadoptive parent, or any relative providing care  
 3667 for such child, including the right to be heard. The written notice shall be delivered to the  
 3668 recipient at least 72 hours before the review or hearing by United States mail, e-mail, or  
 3669 hand delivery.

3670 (b) This Code section shall not be construed to require a caregiver, foster parent,  
 3671 preadoptive parent, or relative caring for the child at issue to be made a party to the hearing  
 3672 solely on the basis of such notice and right to be heard.

3673 15-11-301.

3674 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall  
 3675 be conducted within 90 days of the date a petition to terminate parental rights is filed.

3676 (b) If no just cause for delay has been shown by written finding of fact by the court, an  
 3677 order of disposition shall be issued by the juvenile court no later than 30 days after the  
 3678 conclusion of the hearing on the petition to terminate parental rights.

3679 (c) All hearings contemplated by this article shall be recorded by stenographic notes or by  
 3680 electronic, mechanical, or other appropriate means capable of accurately capturing a full  
 3681 and complete record of all words spoken during the hearings. If no just cause for delay has  
 3682 been shown, the court reporter shall provide a transcript of the hearings no later than 30  
 3683 days after a notice of appeal is filed.

3684 (d) This Code section shall not affect the right to request a rehearing or the right to appeal  
 3685 the juvenile court's order.

3686 (e) Failure to comply with the time requirements of this Code section shall not be grounds  
 3687 to invalidate an otherwise proper order terminating parental rights unless the court  
 3688 determines that such delay resulted in substantial prejudice to a party.

3689 15-11-302.

3690 The record of the testimony of the parties adduced in any proceeding under this article shall  
 3691 not be admissible in any civil, criminal, or any other cause or proceedings in any court

3692 against a person named as respondent for any purpose whatsoever, except in subsequent  
 3693 dependency or termination proceedings involving the same child or dependency or  
 3694 termination proceedings involving the same respondent.

3695 15-11-303.

3696 In all proceedings under this article, the standard of proof to be adduced to terminate  
 3697 parental rights shall be by clear and convincing evidence.

3698 Part 5

3699 15-11-310.

3700 (a) In considering the termination of parental rights, the court shall first determine whether  
 3701 one of the following statutory grounds for termination of parental rights has been met:

3702 (1) The parent has given written consent to termination which has been acknowledged  
 3703 by the court or has voluntarily surrendered his or her child for adoption;

3704 (2) The parent has subjected his or her child to aggravated circumstances;

3705 (3) The parent has wantonly and willfully failed to comply for a period of 12 months or  
 3706 longer with a decree to support his or her child that has been entered by a court of  
 3707 competent jurisdiction of this or any other state;

3708 (4) A child is abandoned by his or her parent; or

3709 (5) A child is a dependent child due to lack of proper parental care or control by his or  
 3710 her parent, reasonable efforts to remedy the circumstances have been unsuccessful or  
 3711 were not required, such cause of dependency is likely to continue or will not likely be  
 3712 remedied, and the continued dependency will cause or is likely to cause serious physical,  
 3713 mental, emotional, or moral harm to such child.

3714 (b) If any of the statutory grounds for termination has been met, the court shall then  
 3715 consider whether termination is in a child's best interests after considering the following  
 3716 factors:

3717 (1) Such child's sense of attachments, including his or her sense of security and  
 3718 familiarity, and the continuity of affection for such child;

3719 (2) Such child's wishes and long-term goals;

3720 (3) Such child's need for permanence, including his or her need for stability and  
 3721 continuity of relationships with a parent, siblings, and other relatives; and

3722 (4) Any other factors, including the factors set forth in Code Section 15-11-26,  
 3723 considered by the court to be relevant and proper to its determination.

3724 (c) If the court determines that a parent has subjected his or her child to aggravated  
 3725 circumstances because such parent has committed the murder of the other parent of such

3726 child, the court shall presume that termination of parental rights is in the best interests of  
 3727 the child.

3728 15-11-311.

3729 (a) In determining whether a child is without proper parental care and control, the court  
 3730 shall consider, without being limited to, the following:

3731 (1) A medically verified deficiency of such child's parent's physical, mental, or emotional  
 3732 health that is of such duration or nature so as to render such parent unable to provide  
 3733 adequately for his or her child;

3734 (2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect  
 3735 of rendering a parent of such child incapable of providing adequately for the physical,  
 3736 mental, emotional, or moral condition and needs of his or her child;

3737 (3) A felony conviction and imprisonment of a parent of such child for an offense which  
 3738 has a demonstrably negative effect on the quality of the parent-child relationship  
 3739 including, but not limited to, any of the following:

3740 (A) Murder of another child of such parent;

3741 (B) Voluntary manslaughter of another child of such parent;

3742 (C) Voluntary manslaughter of the other parent of his or her child;

3743 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3744 voluntary manslaughter of another child of such parent;

3745 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3746 voluntary manslaughter of the other parent of his or her child; or

3747 (F) Committing felony assault that results in serious bodily injury to his or her child  
 3748 or another child of such parent;

3749 (4) Egregious conduct or evidence of past egregious conduct of a physically,  
 3750 emotionally, or sexually cruel or abusive nature by such parent toward his or her child or  
 3751 toward another child of such parent;

3752 (5) Physical, mental, or emotional neglect of his or her child or evidence of past physical,  
 3753 mental, or emotional neglect by the parent of such child or another child of such parent;  
 3754 and

3755 (6) Serious bodily injury or death of a sibling of his or her child under circumstances  
 3756 which constitute substantial evidence that such injury or death resulted from parental  
 3757 neglect or abuse.

3758 (b) In determining whether a child who is not in the custody and care of his or her parent  
 3759 is without proper parental care and control, the court shall also consider, without being  
 3760 limited to, whether such parent, without justifiable cause, has failed significantly for a  
 3761 period of six months prior to the date of the termination hearing:

- 3762 (1) To develop and maintain a parental bond with his or her child in a meaningful,  
 3763 supportive manner;  
 3764 (2) To provide for the care and support of his or her child as required by law or judicial  
 3765 decree; and  
 3766 (3) To comply with a court ordered plan designed to reunite such parent with his or her  
 3767 child.
- 3768 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu  
 3769 of medical care, in the exercise of religious beliefs, shall not be the sole basis for  
 3770 determining a parent to be unwilling or unable to provide safety and care adequate to meet  
 3771 his or her child's physical, emotional, and mental health needs as provided in paragraph (1)  
 3772 of subsection (a) of this Code section or as depriving such child of proper parental care or  
 3773 control for purposes of this Code section and Code Section 15-11-310.

3774 Part 6

3775 15-11-320.

3776 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by  
 3777 clear and convincing evidence and that termination of parental rights is in a child's best  
 3778 interests, it shall order the termination of the parent's rights.

3779 (b) The court's order shall:

3780 (1) Contain written findings on which the order is based, including the factual basis for  
 3781 a determination that grounds for termination of parental rights exist and that termination  
 3782 is in the best interests of the child;

3783 (2) Be conclusive and binding on all parties from the date of entry;

3784 (3) Grant custody of the child at issue in accordance with Code Section 15-11-321; and

3785 (4) Inform the parent whose rights have been terminated of his or her right to use the  
 3786 services of the Georgia Adoption Reunion Registry; however, failure to include such  
 3787 information shall not affect the validity of the judgment.

3788 (c) If the court does not order the termination of parental rights but the court finds that  
 3789 there is clear and convincing evidence that a child is a dependent child, the court may enter  
 3790 a disposition order in accordance with the provisions of Article 3 of this chapter.

3791 (d) The court shall transmit a copy of every final order terminating the parental rights of  
 3792 a parent to the Office of Adoptions of the department within 15 days of the filing of such  
 3793 order.

3794 15-11-321.

3795 (a) When a court enters an order terminating the parental rights of a parent or accepts a  
3796 parent's voluntary surrender of parental rights, or a petition for termination of parental  
3797 rights is withdrawn because a parent has executed an act of surrender in favor of the  
3798 department, a placement may be made only if the court finds that such placement is in the  
3799 best interests of the child and in accordance with such child's court approved permanency  
3800 plan created pursuant to Code Sections 15-11-231 and 15-11-232. In determining which  
3801 placement is in a child's best interests, the court shall enter findings of fact reflecting its  
3802 consideration of the following:

3803 (1) Such child's need for a placement that offers the greatest degree of legal permanence  
3804 and security;

3805 (2) The least disruptive placement for such child;

3806 (3) Such child's sense of attachment and need for continuity of relationships;

3807 (4) The value of biological and familial connections; and

3808 (5) Any other factors the court deems relevant to its determination.

3809 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes  
3810 of placement.

3811 (c) A placement effected under the provisions of this Code section shall be conditioned  
3812 upon the person who is given custody or who is granted an adoption of a child whose  
3813 parents have had their parental rights terminated or surrendered agreeing to abide by the  
3814 terms and conditions of the order of the court.

3815 (d) In addition to its rights as a legal custodian, the department has the authority to consent  
3816 to the adoption of a child whose parents have had their parental rights terminated or  
3817 surrendered.

3818 15-11-322.

3819 (a) If a petition seeking the adoption of a child whose parents have had their parental rights  
3820 terminated or surrendered is not filed within six months after the date of the disposition  
3821 order, the court shall then, and at least every six months thereafter so long as such child  
3822 remains unadopted, review the circumstances of such child to determine what efforts have  
3823 been made to assure that such child will be adopted. The court shall:

3824 (1) Make written findings regarding whether reasonable efforts have been made to move  
3825 such child to permanency;

3826 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for  
3827 such child remains appropriate; and

3828 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other  
3829 permanency options, including, but not limited to, another placement.

3830 (b) In those cases in which a child whose parents have had their parental rights terminated  
3831 or surrendered was placed with a guardian, within 60 days after such appointment and  
3832 within 60 days after each anniversary date of such appointment, the guardian shall file with  
3833 the court a personal status report of such child which shall include:

3834 (1) A description of such child's general condition, changes since the last report, and  
3835 such child's needs;

3836 (2) All addresses of such child during the reporting period and the living arrangements  
3837 of such child for all addresses; and

3838 (3) Recommendations for any modification of the guardianship order.

3839 15-11-323.

3840 (a) A child who has not been adopted after the passage of at least three years from the date  
3841 the court terminated parental rights or the parent voluntarily surrendered parental rights to  
3842 DFCS and for whom the court has determined that adoption is no longer the permanent  
3843 plan may petition the court to reinstate parental rights pursuant to the modification of  
3844 orders procedure prescribed by Code Section 15-11-32. Such child may file the petition  
3845 to reinstate parental rights prior to the expiration of such three-year period if the  
3846 department or licensed child-placing agency that is responsible for the custody and  
3847 supervision of such child and such child stipulate that such child is no longer likely to be  
3848 adopted. A child 14 years of age or older shall sign the petition in the absence of a  
3849 showing of good cause as to why such child could not do so.

3850 (b) If it appears that the best interests of a child may be promoted by reinstatement of  
3851 parental rights, the court shall order that a hearing be held and shall cause notice to be  
3852 served by United States mail to DFCS, the attorney of record, guardian ad litem, if any, and  
3853 foster parents, if any, of the child whose parental rights were terminated or surrendered and  
3854 the child's former parent whose parental rights were terminated or surrendered. The former  
3855 parent and foster parents, if any, shall have a right to be heard at the hearing to reinstate  
3856 parental rights but shall not be parties at such hearing, and such hearing may be conducted  
3857 in their absence. A child's motion shall be dismissed if his or her former parent cannot be  
3858 located or if such parent objects to the reinstatement.

3859 (c) The court shall grant the petition if it finds by clear and convincing evidence that a  
3860 child is no longer likely to be adopted and that reinstatement of parental rights is in the  
3861 child's best interests. In determining whether reinstatement is in the child's best interests  
3862 the court shall consider, but not be limited to, the following:

3863 (1) Whether a parent whose rights are to be reinstated is a fit parent and has remedied his  
3864 or her deficits as provided in the record of the prior termination proceedings and prior  
3865 termination order;

- 3866 (2) The age and maturity of a child and the ability of such child to express his or her  
 3867 preference;
- 3868 (3) Whether the reinstatement of parental rights will present a risk to a child's health,  
 3869 welfare, or safety; and
- 3870 (4) Other material changes in circumstances, if any, that may have occurred which  
 3871 warrant the granting of the petition.
- 3872 (d) If the court grants the petition to reinstate parental rights, a review hearing shall be  
 3873 scheduled within six months. During such period, the court may order that a child be  
 3874 immediately placed in the custody of his or her parent or, if the court determines that a  
 3875 transition period is necessary and such child is in DFCS custody at the time of the order,  
 3876 order DFCS to provide transition services to the family as appropriate.
- 3877 (e) An order granted under this Code section reinstates a parent's rights to his or her child.  
 3878 Such reinstatement shall be a recognition that the situation of the parent and his or her child  
 3879 has changed since the time of the termination of parental rights and reunification is now  
 3880 appropriate.
- 3881 (f) This Code section is intended to be retroactive and applied to any child who is under  
 3882 the jurisdiction of the court at the time of the hearing regardless of the date parental rights  
 3883 were terminated.

3884 ARTICLE 5

3885 Part 1

3886 15-11-380.

3887 The purpose of this article is:

- 3888 (1) To acknowledge that certain behaviors or conditions occurring within a family or  
 3889 school environment indicate that a child is experiencing serious difficulties and is in need  
 3890 of services and corrective action in order to protect such child from the irreversibility of  
 3891 certain choices and to protect the integrity of such child's family;
- 3892 (2) To make family members aware of their contributions to their family's problems and  
 3893 to encourage family members to accept the responsibility to participate in any program  
 3894 of care ordered by the court;
- 3895 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,  
 3896 supervision, and rehabilitation that he or she needs to assist him or her in becoming a  
 3897 responsible and productive member of society; and
- 3898 (4) To ensure the cooperation and coordination of all agencies having responsibility to  
 3899 supply services to any member of a family referred to the court.

3900 15-11-381.

3901 As used in this article, the term:

3902 (1) 'Comprehensive services plan' means an interagency treatment, habilitation, support,  
 3903 or supervision plan developed collaboratively by state or local agency representatives,  
 3904 parties, and other interested persons following a court's finding that a child is incompetent  
 3905 to proceed.

3906 (2) 'Habilitation' means the process by which a child is helped to acquire and maintain  
 3907 those life skills which will enable him or her to cope more effectively with the demands  
 3908 of his or her own person and of his or her environment and to raise the level of his or her  
 3909 physical, mental, social, and vocational abilities.

3910 (3) 'Plan manager' means a person who is under the supervision of the court and is  
 3911 appointed by the court to convene a meeting of all relevant parties for the purpose of  
 3912 developing a comprehensive services plan.

3913 (4) 'Runaway' means a child who without just cause and without the consent of his or her  
 3914 parent, guardian, or legal custodian is absent from his or her home or place of abode for  
 3915 at least 24 hours.

3916 (5) 'Status offense' means an act prohibited by law which would not be an offense if  
 3917 committed by an adult.

3918 (6) 'Truant' means having ten or more days of unexcused absences from school in the  
 3919 current academic year.

3920 Part 2

3921 15-11-390.

3922 (a) A complaint alleging a child is a child in need of services may be filed by a parent,  
 3923 guardian, or legal custodian, DFCS, a school official, a law enforcement officer, a guardian  
 3924 ad litem, or an attorney who has knowledge of the facts alleged or is informed and believes  
 3925 that such facts are true.

3926 (b) The complaint shall set forth plainly and with particularity:

3927 (1) The name, date of birth, and residence address of the child alleged to be a child in  
 3928 need of services;

3929 (2) The names and residence addresses of the parent, guardian, or legal custodian, any  
 3930 other family members, or any other individuals living within such child's home;

3931 (3) The name of any public institution or agency having the responsibility or ability to  
 3932 supply services alleged to be needed by such child; and

3933 (4) Whether any of the matters required by this subsection are unknown.

3934 (c) When a school official is filing a complaint alleging a child is a child in need of  
 3935 services, information shall be included which shows that:

3936 (1) The legally liable school district has sought to resolve the expressed problem through  
 3937 available educational approaches; and

3938 (2) The school district has sought to engage the parent, guardian, or legal custodian of  
 3939 such child in solving the problem but such person has been unwilling or unable to do so,  
 3940 that the problem remains, and that court intervention is needed.

3941 (d) When a school official is filing a complaint alleging a child is a child in need of  
 3942 services involving a child who is eligible or suspected to be eligible for services under the  
 3943 federal Individuals with Disabilities Education Act or Section 504 of the federal  
 3944 Rehabilitation Act of 1973, information shall be included which demonstrates that the  
 3945 legally liable school district:

3946 (1) Has determined that such child is eligible or suspected to be eligible under the federal  
 3947 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
 3948 Act of 1973; and

3949 (2) Has reviewed for appropriateness such child's current Individualized Education  
 3950 Program (IEP) and placement and has made modifications where appropriate.

3951 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging  
 3952 that a child is a child in need of services.

3953 Part 3

3954 15-11-400.

3955 (a) The continued custody hearing for a child alleged to be a child in need of services shall  
 3956 be held promptly and no later than:

3957 (1) Seventy-two hours after such child is taken into temporary custody if he or she is  
 3958 being held in a secure residential facility or nonsecure residential facility; or

3959 (2) Five days after such child is placed in foster care, provided that, if the five-day time  
 3960 frame expires on a weekend or legal holiday, the hearing shall be held on the next day  
 3961 which is not a weekend or legal holiday.

3962 (b) If a child alleged to be a child in need of services was never taken into temporary  
 3963 custody or is released from temporary custody at the continued custody hearing, the  
 3964 following time frames apply:

3965 (1) The petition for a child in need of services shall be filed:

3966 (A) Within 30 days of the filing of the complaint with the juvenile court; or

3967 (B) Within 30 days of such child's release from temporary custody;

3968 (2) Summons shall be served at least 72 hours before the adjudication hearing;

3969 (3) An adjudication hearing shall be scheduled to be held no later than 60 days after the  
 3970 filing of the petition for a child in need of services; and

3971 (4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be  
 3972 held and completed within 30 days after the conclusion of an adjudication hearing.

3973 (c) If a child alleged to be a child in need of services is not released from temporary  
 3974 custody at the continued custody hearing, the following time frames apply:

3975 (1) The petition for a child in need of services shall be filed within five days of the  
 3976 continued custody hearing;

3977 (2) Summons shall be served at least 72 hours before an adjudication hearing;

3978 (3) An adjudication hearing shall be scheduled to be held no later than ten days after the  
 3979 filing of the petition for a child in need of services; and

3980 (4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be  
 3981 held and completed within 30 days after the conclusion of an adjudication hearing.

3982 15-11-401.

3983 (a) A proceeding under this article may be commenced in the county in which the act  
 3984 complained of took place or in the county in which the child alleged to be a child in need  
 3985 of services legally resides.

3986 (b) If a proceeding is commenced in the county in which the act complained of took place,  
 3987 the court shall transfer the case to the county in which the child alleged to be a child in  
 3988 need of services legally resides for further proceedings.

3989 (c) When a proceeding is transferred, certified copies of all legal and social documents and  
 3990 records on file with the clerk of court pertaining to the proceeding shall accompany such  
 3991 transfer.

3992 15-11-402.

3993 (a) The court shall appoint an attorney for a child alleged to be a child in need of services.

3994 (b) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and a  
 3995 CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

3996 (c) The court may appoint a guardian ad litem for a child alleged to be a child in need of  
 3997 services at the request of such child's attorney or upon the court's own motion if it  
 3998 determines that a guardian ad litem is necessary to assist the court in determining the best  
 3999 interests of such child; provided, however, that such guardian ad litem may be the same  
 4000 person as the child's attorney unless or until there is a conflict of interest between the  
 4001 attorney's duty to such child as such child's attorney and the attorney's considered opinion  
 4002 of such child's best interests as guardian ad litem.

4003 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be  
 4004 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

4005 (e) If an attorney or a guardian ad litem has previously been appointed for a child in a  
 4006 dependency or delinquency proceeding, the court, when possible, shall appoint the same  
 4007 attorney or guardian ad litem for a child alleged to be a child in need of services.

4008 (f) An attorney appointed to represent a child in a proceeding for a child in need of  
 4009 services shall continue representation in any subsequent appeals unless excused by the  
 4010 court.

4011 (g) A child alleged to be a child in need of services shall be informed of his or her right  
 4012 to an attorney at or prior to the first court proceeding for a child in need of services. A  
 4013 child alleged to be a child in need of services shall be given an opportunity to:

4014 (1) Obtain and employ an attorney of his or her own choice; or

4015 (2) To obtain a court appointed attorney if the court determines that such child is an  
 4016 indigent person.

4017 15-11-403.

4018 A continuance shall be granted only upon a showing of good cause and only for that period  
 4019 of time shown to be necessary by the moving party at the hearing on such motion.

4020 Whenever any continuance is granted, the facts which require the continuance shall be  
 4021 entered into the court record.

4022 15-11-404.

4023 If a child is alleged or adjudicated to be a child in need of services and is placed in foster  
 4024 care, the child shall be required to have a case plan. In addition to the case plan  
 4025 requirements of Code Section 15-11-201, a case plan shall include:

4026 (1) A description of such child's strengths and needs;

4027 (2) A description of such child's specific parental strengths and needs;

4028 (3) A description of other personal, family, or environmental problems that may  
 4029 contribute to such child's behaviors;

4030 (4) A description of the safety, physical, and mental health needs of such child;

4031 (5) Identification of the least restrictive placement to safeguard such child's best interests  
 4032 and protect the community;

4033 (6) An assessment of the availability of community resources to address such child's and  
 4034 his or her family's needs;

4035 (7) An assessment of the availability of court diversion services; and

4036 (8) An assessment of the availability of other preventive measures.

4037 15-11-405.

4038 Any proceeding or other processes or actions alleging for the first time that a child is a  
 4039 runaway shall be terminated or dismissed upon the request of such child's parent, guardian,  
 4040 or legal custodian.

4041 Part 4

4042 15-11-410.

4043 (a) A child may be taken into temporary custody under this article:

4044 (1) Pursuant to a court order; or

4045 (2) By a law enforcement officer when there are reasonable grounds to believe that a  
 4046 child has run away from his or her parent, guardian, or legal custodian or the  
 4047 circumstances are such as to endanger a child's health or welfare unless immediate action  
 4048 is taken.

4049 (b) Before entering an order authorizing temporary custody, the court shall consider the  
 4050 results of a detention assessment and determine whether continuation in the home is  
 4051 contrary to a child's welfare and whether there are available services that would prevent the  
 4052 need for custody. The court shall make such determination on a case-by-case basis and  
 4053 shall make written findings of fact referencing any and all evidence relied upon in reaching  
 4054 its decision.

4055 (c) A person taking a child into temporary custody shall deliver such child, with all  
 4056 reasonable speed and without first taking such child elsewhere, to a medical facility if he  
 4057 or she is believed to suffer from a serious physical condition or illness which requires  
 4058 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.  
 4059 Immediately upon being notified by the person taking such child into custody, the juvenile  
 4060 court intake officer shall administer a detention assessment and determine if such child  
 4061 should be released, remain in temporary custody, or be brought before the court.

4062 15-11-411.

4063 (a) A person taking a child into temporary custody pursuant to Code Section 15-11-410  
 4064 shall not exercise custody over such child except for a period of 12 hours.

4065 (b) Immediately after a child taken into custody, every effort shall be made to contact such  
 4066 child's parents, guardian, or legal custodian.

4067 (c) If a parent, guardian, or legal custodian has not assumed custody of his or her child at  
 4068 the end of the 12 hour period described in subsection (a) of this Code section, the court  
 4069 shall be notified and shall place such child in the least restrictive placement consistent with  
 4070 such child's needs for protection or control in the custody of such child's parents, guardian,

4071 or legal custodian upon such person's promise to bring such child before the court when  
4072 requested by the court; provided, however, that if such placement is not available, such  
4073 child shall be placed in the custody of DFCS which shall promptly arrange for foster care  
4074 of such child.

4075 15-11-412.

4076 (a) A child alleged to be a child in need of services may be held in a secure residential  
4077 facility or nonsecure residential facility until a continued custody hearing is held, provided  
4078 that a detention assessment has been administered and such child is not held in a secure  
4079 residential facility or nonsecure residential facility for more than 24 hours and any of the  
4080 following apply:

4081 (1) It is alleged that such child is a runaway;

4082 (2) It is alleged that such child is habitually disobedient of the reasonable and lawful  
4083 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4084 (3) Such child has previously failed to appear at a scheduled hearing.

4085 (b) A child alleged to be a child in need of services placed in a secure residential facility  
4086 or nonsecure residential facility pursuant to subsection (a) of this Code section may be  
4087 appointed an attorney prior to the continued custody hearing.

4088 (c) In no case shall a child alleged to be or adjudicated as a child in need of services in  
4089 custody be detained in a jail, adult lock-up, or other adult detention facility.

4090 15-11-413.

4091 (a) If a child alleged to be a child in need of services is being held in a secure residential  
4092 facility or nonsecure residential facility, a continued custody hearing shall be held within  
4093 72 hours. If such hearing is not held within the time specified, such child shall be released  
4094 from temporary detention in accordance with subsection (c) of Code Section 15-11-411 and  
4095 with authorization of the detaining authority.

4096 (b) If a child alleged to be a child in need of services is not being held in a secure  
4097 residential facility or nonsecure residential facility and has not been released to the custody  
4098 of such child's parent, guardian, or legal custodian, a hearing shall be held promptly and  
4099 not later than five days after such child is placed in foster care, provided that, if the  
4100 five-day time frame expires on a weekend or legal holiday, the hearing shall be held on the  
4101 next day which is not a weekend or legal holiday.

4102 (c) At the commencement of a continued custody hearing, the court shall inform the  
4103 parties of:

4104 (1) The nature of the allegations;

4105 (2) The nature of the proceedings;

4106 (3) The possible consequences or dispositions that may apply to such child's case  
 4107 following adjudication; and  
 4108 (4) Their due process rights, including the right to an attorney and to an appointed  
 4109 attorney; the privilege against self-incrimination; that he or she may remain silent and  
 4110 that anything said may be used against him or her; the right to confront anyone who  
 4111 testifies against him or her and to cross-examine any persons who appear to testify  
 4112 against him or her; the right to testify and to compel other witnesses to attend and testify  
 4113 in his or her own behalf; the right to a speedy adjudication hearing; and the right to  
 4114 appeal and be provided with a transcript for such purpose.

4115 15-11-414.

4116 (a) At a continued custody hearing, the court shall determine whether there is probable  
 4117 cause to believe that a child has committed a status offense or is otherwise a child in need  
 4118 of services and that continued custody is necessary.

4119 (b) If the court determines there is probable cause to believe that a child has committed a  
 4120 status offense or is otherwise in need of services, the court may order that such child:

4121 (1) Be released to the custody of his or her parent, guardian, or legal custodian; or

4122 (2) Be placed in the least restrictive placement consistent with such child's need for  
 4123 protection and control as authorized by Code Section 15-11-411 and in accordance with  
 4124 Code Section 15-11-415.

4125 (c) If the court determines there is probable cause to believe that such child has committed  
 4126 a status offense or is otherwise in need of services, the court shall:

4127 (1) Refer such child and his or her family for a community based risk reduction program;  
 4128 or

4129 (2) Order that a petition for a child in need of services be filed and set a date for an  
 4130 adjudication hearing.

4131 (d) Following a continued custody hearing, the court may detain a child alleged to be a  
 4132 child in need of services in a secure residential facility or nonsecure residential facility for  
 4133 up to 72 hours, excluding weekends and legal holidays, only for the purpose of providing  
 4134 adequate time to arrange for an appropriate alternative placement pending the adjudication  
 4135 hearing.

4136 (e) All orders shall contain written findings as to the form or conditions of a child's release.  
 4137 If a child alleged to be a child in need of services cannot be returned to the custody of his  
 4138 or her parent, guardian, or legal custodian at the continued custody hearing, the court shall  
 4139 state the facts upon which the continued custody is based. The court shall make the  
 4140 following findings of fact referencing any and all evidence relied upon to make its  
 4141 determinations:

4142 (1) Whether continuation in the home of such child's parent, guardian, or legal custodian  
 4143 is contrary to such child's welfare; and  
 4144 (2) Whether reasonable efforts have been made to safely maintain such child in the home  
 4145 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for  
 4146 removal from such home. Such finding shall be made at the continued custody hearing  
 4147 if possible but in no case later than 60 days following such child's removal from his or  
 4148 her home.

4149 15-11-415.

4150 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when  
 4151 there is probable cause to believe that a child committed the act of which he or she is  
 4152 accused, there is clear and convincing evidence that such child's freedom should be  
 4153 restrained, that no less restrictive alternatives will suffice, and:

4154 (1) Such child's detention or care is required to reduce the likelihood that he or she may  
 4155 inflict serious bodily harm on others during the interim period;

4156 (2) Such child's detention is necessary to secure his or her presence in court to protect  
 4157 the jurisdiction and processes of the court; or

4158 (3) An order for such child's detention has been made by the court.

4159 (b) A child alleged to be a child in need of services shall not be detained:

4160 (1) To punish, treat, or rehabilitate such child;

4161 (2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal  
 4162 responsibilities;

4163 (3) To satisfy demands by a victim, law enforcement, or the community;

4164 (4) To permit more convenient administrative access to him or her;

4165 (5) To facilitate further interrogation or investigation; or

4166 (6) Due to a lack of a more appropriate facility.

4167 (c) Whenever a child alleged to be a child in need of services cannot be unconditionally  
 4168 released, conditional or supervised release that results in the least necessary interference  
 4169 with the liberty of such child shall be favored over more intrusive alternatives.

4170 (d) Whenever the curtailment of the freedom of a child alleged to be a child in need of  
 4171 services is permitted, the exercise of authority shall reflect the following values:

4172 (1) Respect for the privacy, dignity, and individuality of such child and his or her family;

4173 (2) Protection of the psychological and physical health of such child;

4174 (3) Tolerance of the diverse values and preferences among different groups and  
 4175 individuals;

4176 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

4177 (5) Avoidance of regimentation and depersonalization of such child;

- 4178 (6) Avoidance of stigmatization of such child; and  
 4179 (7) Assurance that such child has been informed of his or her right to consult with an  
 4180 attorney and that, if the child is an indigent person, an attorney will be provided.  
 4181 (e) Before entering an order authorizing detention, the court shall determine whether a  
 4182 child's continuation in his or her home is contrary to his or her welfare and whether there  
 4183 are available services that would prevent or eliminate the need for detention. The court  
 4184 shall make such determination on a case-by-case basis and shall make written findings of  
 4185 fact referencing any and all evidence relied upon in reaching its decision.  
 4186 (f) If a child alleged to be a child in need of services can remain in the custody of his or  
 4187 her parent, guardian, or legal custodian through the provision of services to prevent the  
 4188 need for removal, the court shall order that such services shall be provided.

4189 Part 5

4190 15-11-420.

4191 A petition alleging that a child is a child in need of services may be made by any person,  
 4192 including a law enforcement officer, who has knowledge of the facts alleged or is informed  
 4193 and believes that such facts are true. Such petition shall not be filed unless the court or a  
 4194 person authorized by the court has determined and endorsed on the petition that the filing  
 4195 of the petition is in the best interests of the public and such child.

4196 15-11-421.

4197 (a) If a child alleged to be a child in need of services is not released from temporary  
 4198 custody at a continued custody hearing, a petition seeking an adjudication that such child  
 4199 is a child in need of services shall be filed within five days of such continued custody  
 4200 hearing.

4201 (b) If a child alleged to be a child in need of services was never taken into temporary  
 4202 custody or is released from temporary custody at a continued custody hearing, a petition  
 4203 seeking an adjudication that such child is a child in need of services shall be filed:

4204 (1) Within 30 days of the filing of the complaint with the juvenile court intake officer;  
 4205 or

4206 (2) Within 30 days of such child's release from temporary custody.

4207 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested  
 4208 extension of time for filing a petition seeking an adjudication that a child is a child in need  
 4209 of services in accordance with the best interests of the child. The court shall issue a written  
 4210 order reciting the facts justifying the extension.

4211 (d) If no petition seeking an adjudication that a child is a child in need of services is filed  
 4212 within the required time frame, the complaint may be dismissed without prejudice.

4213 15-11-422.

4214 (a) A petition seeking an adjudication that a child is a child in need of services shall be  
 4215 verified and may be on information and belief. It shall set forth plainly and with  
 4216 particularity:

4217 (1) The facts which bring a child within the jurisdiction of the court, with a statement  
 4218 that it is in the best interests of the child and the public that the proceeding be brought;

4219 (2) The name, date of birth, and residence address of the child alleged to be a child in  
 4220 need of services;

4221 (3) The name and residence address of the parent, guardian, or legal custodian of the  
 4222 child named in the petition; or, if such child's parent, guardian, or legal custodian does  
 4223 not reside or cannot be found within the state or if such place of residence address is  
 4224 unknown, the name of any known adult relative of such child residing within the county  
 4225 or, if there is none, the known adult relative of such child residing nearest to the location  
 4226 of the court;

4227 (4) The name and age of any other family member of such child living within such  
 4228 child's home;

4229 (5) Whether all available and appropriate attempts to encourage voluntary use of  
 4230 community services by such child's family have been exhausted; and

4231 (6) Whether any of the information required by this subsection is unknown.

4232 (b) If a petition seeking an adjudication that a child is a child in need of services is based  
 4233 on a complaint filed by a school official, such petition shall be dismissed unless it includes  
 4234 information which shows that:

4235 (1) The legally liable school district has sought to resolve the expressed problem through  
 4236 available educational approaches; and

4237 (2) The school district has sought to engage such child's parent, guardian, or legal  
 4238 custodian in solving the problem but any such individual has been unwilling or unable  
 4239 to do so; that the problem remains; and that court intervention is needed.

4240 (c) If a petition seeking an adjudication that a child is a child in need of services is based  
 4241 on a complaint filed by a school official involving a child who is eligible or suspected to  
 4242 be eligible for services under the federal Individuals with Disabilities Education Act or  
 4243 Section 504 of the federal Rehabilitation Act of 1973, such petition shall be dismissed  
 4244 unless it includes information which demonstrates that the legally liable school district:

4245 (1) Has determined that such child is eligible or suspected to be eligible under the federal  
4246 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
4247 Act of 1973; and

4248 (2) Has reviewed for appropriateness such child's current Individualized Education  
4249 Program (IEP) and placement and has made modifications where appropriate.

4250 15-11-423.

4251 (a) The court shall direct the issuance of a summons to the child alleged to be a child in  
4252 need of services, his or her parent, guardian, or legal custodian, DFCS and any other public  
4253 agencies or institutions providing services, and any other persons who appear to the court  
4254 to be proper or necessary parties to such child in need of services proceeding requiring  
4255 them to appear before the court at the time fixed to answer the allegations of the petition  
4256 seeking an adjudication that a child is in need of services. A copy of such petition shall  
4257 accompany the summons.

4258 (b) The summons shall state that a party is entitled to an attorney in the proceedings and  
4259 that the court will appoint an attorney if the party is an indigent person.

4260 (c) A party other than a child may waive service of summons by written stipulation or by  
4261 voluntary appearance at the hearing.

4262 15-11-424.

4263 (a) If a party to be served with a summons pursuant to Code Section 15-11-423 is within  
4264 this state and can be found, the summons shall be served upon him or her personally as  
4265 soon as possible and at least 72 hours before the adjudication hearing.

4266 (b) If a party to be served is within this state and cannot be found but his or her address is  
4267 known or can be ascertained with due diligence, the summons shall be served upon such  
4268 party at least five days before an adjudication hearing by mailing him or her a copy by  
4269 registered or certified mail or statutory overnight delivery, return receipt requested.

4270 (c) If a party to be served is outside this state but his or her address is known or can be  
4271 ascertained with due diligence, service of the summons shall be made at least five days  
4272 before an adjudication hearing either by delivering a copy to such party personally or by  
4273 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,  
4274 return receipt requested.

4275 (d) Service of the summons may be made by any suitable person under the direction of the  
4276 court.

4277 (e) The court may authorize payment from county funds of the costs of service and of  
4278 necessary travel expenses incurred by persons summoned or otherwise required to appear  
4279 at the hearing on the petition seeking an adjudication that a child is in need of services.

4280 15-11-425.

4281 (a) In the event a parent, guardian, or legal custodian of a child alleged to be a child in  
4282 need of services willfully fails to appear personally at a hearing on the petition seeking an  
4283 adjudication that a child is a child in need of services after being ordered to so appear or  
4284 such parent, guardian, or legal custodian willfully fails to bring such child to such hearing  
4285 after being so directed, the court may issue a rule nisi against the person directing the  
4286 person to appear before the court to show cause why he or she should not be held in  
4287 contempt of court.

4288 (b) If a parent, guardian, or legal custodian of the child alleged to be a child in need of  
4289 services fails to appear in response to an order to show cause, the court may issue a bench  
4290 warrant directing that such parent, guardian, or legal custodian be brought before the court  
4291 without delay to show cause why he or she should not be held in contempt and the court  
4292 may enter any order authorized by the provisions of Code Section 15-11-31.

4293 (c) In the event an agency representative willfully fails to appear at a hearing on the  
4294 petition seeking an adjudication that a child is a child in need of services after being  
4295 ordered to so appear, the court may direct the appropriate agency representative to appear  
4296 before the court to show cause why a contempt order should not be issued.

4297 (d) If a child 16 years of age or older fails to appear at a hearing on a petition seeking an  
4298 adjudication that such child is a child in need of services after being ordered to so appear,  
4299 the court may issue a bench warrant requiring that such child be brought before the court  
4300 without delay and the court may enter any order authorized by the provisions of Code  
4301 Section 15-11-31.

4302 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
4303 willfully refuses to appear at a hearing on a petition seeking an adjudication that such child  
4304 is a child in need of services after being ordered to so appear, the court may issue a bench  
4305 warrant requiring that such child be brought before the court and the court may enter any  
4306 order authorized by the provisions of Code Section 15-11-31.

4307 Part 6

4308 15-11-440.

4309 The petitioner has the burden of proving the allegations of a child in need of services  
4310 petition by clear and convincing evidence.

4311 15-11-441.

4312 (a) If a child alleged to be a child in need of services is in continued custody but not in a  
4313 secure residential facility or nonsecure residential facility, the adjudication hearing shall

4314 be scheduled to be held no later than ten days after the filing of the petition seeking an  
4315 adjudication that such child is a child in need of services. If such child is not in continued  
4316 custody, the adjudication hearing shall be scheduled to be held no later than 60 days after  
4317 the filing of such petition.

4318 (b) At the conclusion of the adjudication hearing, the court shall determine whether such  
4319 child is a child in need of services.

4320 15-11-442.

4321 (a) If the court finds that a child is a child in need of services, a final disposition hearing  
4322 shall be held and completed within 60 days of the conclusion of the adjudication hearing.

4323 (b) The court shall order the least restrictive and most appropriate disposition. Such  
4324 disposition may include:

4325 (1) Permitting such child to remain with his or her caregiver without limitations or  
4326 conditions;

4327 (2) Permitting such child to remain with his or her caregiver subject to such limitations  
4328 and conditions as the court may prescribe;

4329 (3) Placing such child on probation or unsupervised probation on such terms and  
4330 conditions as deemed in the best interests of such child and the public. An order granting  
4331 probation to a child in need of services may be revoked on the ground that the terms and  
4332 conditions of the probation have not been observed;

4333 (4) Requiring that such child perform community service in a manner prescribed by the  
4334 court and under the supervision of an individual designated by the court;

4335 (5) Requiring that such child make restitution. A restitution order may remain in force  
4336 and effect simultaneously with another order of the court. Payment of funds shall be  
4337 made by such child or his or her family or employer directly to the clerk of the juvenile  
4338 court entering the order or another employee of that court designated by the judge, and  
4339 such court shall disburse such funds in the manner authorized in the order. While an  
4340 order requiring restitution is in effect, the court may transfer enforcement of its order to:

4341 (A) The juvenile court of the county of such child's residence and its probation staff,  
4342 if he or she changes his or her place of residence; or

4343 (B) A superior court once such child reaches 18 years of age if he or she thereafter  
4344 comes under the jurisdiction of the superior court;

4345 (6) Imposing a fine on such child who has committed an offense which, if committed by  
4346 an adult, would be a violation under the criminal laws of this state or has violated an  
4347 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall  
4348 not exceed the fine which may be imposed against an adult for the same offense;

4349 (7) Requiring such child to attend structured after-school or evening programs or other  
 4350 court approved programs as well as requiring supervision of such child during the time  
 4351 of the day in which he or she most often used to perform the acts complained of in the  
 4352 petition alleging that such child is a child in need of services;

4353 (8) Any order authorized for the disposition of a dependent child;

4354 (9) Any order authorized for the disposition of a delinquent child except that a child in  
 4355 need of services shall not be placed in a secure residential facility or nonsecure residential  
 4356 facility nor shall such facility accept such child; or

4357 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this  
 4358 subsection as the court deems to be in the best interests of a child and the public.

4359 (c) All disposition orders shall include written findings of the basis for the disposition and  
 4360 such conditions as the court imposes and a specific plan of the services to be provided.

4361 15-11-443.

4362 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish  
 4363 the purposes of the order and for not more than two years. A written disposition order shall  
 4364 state the length of time the order is to be in effect. An order of extension may be made if:

4365 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the  
 4366 prosecuting attorney, or on the court's own motion;

4367 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
 4368 opportunity to be heard are given to the parties affected;

4369 (3) The court finds that the extension is necessary to accomplish the purposes of the  
 4370 order extended; and

4371 (4) The extension does not exceed two years from the expiration of the prior order.

4372 (b) The court may terminate an order of disposition or an extension of such a disposition  
 4373 order prior to its expiration, on its own motion or an application of a party, if it appears to  
 4374 the court that the purposes of the order have been accomplished.

4375 (c) When a child adjudicated as a child in need of services reaches 18 years of age, all  
 4376 orders affecting him or her then in force shall terminate and he or she shall be discharged  
 4377 from further obligation or control.

4378 15-11-444.

4379 (a) An order granting probation to a child adjudicated to be a child in need of services may  
 4380 be revoked on the ground that the conditions of probation have been violated.

4381 (b) Any violation of a condition of probation may be reported to any person authorized to  
 4382 make a petition alleging that a child is in need of services as set forth in Code Section

4383 15-11-420. A motion for revocation of probation shall contain specific factual allegations  
 4384 constituting each violation of a condition of probation.

4385 (c) A motion for revocation of probation shall be served upon the child, his or her attorney,  
 4386 and parent, guardian, or legal custodian in accordance with the provisions of Code Section  
 4387 15-11-424.

4388 (d) If a child in need of services is taken into custody because of the alleged violation of  
 4389 probation, the provisions governing the detention of a child under this article shall apply.

4390 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
 4391 of a motion to revoke probation.

4392 (f) If the court finds, beyond a reasonable doubt, that a child in need of services violated  
 4393 the terms and conditions of probation, the court may:

4394 (1) Extend his or her probation;

4395 (2) Impose additional conditions of probation; or

4396 (3) Make any disposition that could have been made at the time probation was imposed.

4397 15-11-445.

4398 The court shall review the disposition of a child in need of services at least once within  
 4399 three months after such disposition and at least every six months thereafter so long as the  
 4400 order of disposition is in effect.

4401 Part 7

4402 15-11-450.

4403 (a) After determining, in accordance with the provisions of Article 7 of this chapter, that  
 4404 a child alleged to be a child in need of services in a petition under this article or who has  
 4405 been alleged to have committed a delinquent act is unrestorably incompetent to proceed  
 4406 and the court orders that procedures for a comprehensive services plan be initiated, the  
 4407 court shall appoint a plan manager, if one has not already been appointed, to direct the  
 4408 development of a comprehensive services plan for such child.

4409 (b) The plan manager shall convene all relevant parties to develop a comprehensive  
 4410 services plan. A plan manager shall request that the following persons attend such  
 4411 meeting:

4412 (1) The parent, guardian, or legal custodian of such child;

4413 (2) Such child's attorney;

4414 (3) The person who filed the petition alleging that a child is in need of services or  
 4415 committed a delinquent act;

4416 (4) Such child's guardian ad litem, if any;

- 4417 (5) Mental health or developmental disabilities representatives;  
 4418 (6) Such child's caseworker;  
 4419 (7) A representative from such child's school; and  
 4420 (8) Any family member of such child who has shown an interest and involvement in such  
 4421 child's well-being.
- 4422 (c) A plan manager may request that other relevant persons attend a comprehensive  
 4423 services plan meeting, including but not limited to the following:
- 4424 (1) A representative from the Department of Public Health;  
 4425 (2) A DFCS caseworker;  
 4426 (3) Representatives of the public and private resources to be utilized in the plan; and  
 4427 (4) Other persons who have demonstrated an ongoing commitment to the child.
- 4428 (d) A plan manager shall be responsible for collecting all previous histories of such child,  
 4429 including, but not limited to, previous evaluations, assessments, and school records, and  
 4430 for making such histories available for consideration by the persons at the comprehensive  
 4431 services plan meeting.
- 4432 (e) Unless a time extension is granted by the court, a plan manager shall submit the  
 4433 comprehensive services plan to the court within 30 days of the entry of the court's  
 4434 disposition order for a child adjudicated to be unrestorably incompetent to proceed under  
 4435 Article 7 of this chapter. The plan shall include the following:
- 4436 (1) An outline of the specific provisions for supervision of such child for protection of  
 4437 the community and such child;  
 4438 (2) An outline of a plan designed to provide treatment, habilitation, support, or  
 4439 supervision services for a child in the least restrictive environment;  
 4440 (3) If such child's evaluation recommends inpatient treatment, certification by such plan  
 4441 manager that all other appropriate community based treatment options have been  
 4442 exhausted; and  
 4443 (4) Identification of all parties responsible for each element of the plan, including such  
 4444 child, agency representatives, and other persons.
- 4445 (f) A plan manager shall also be responsible for:
- 4446 (1) Convening a meeting of all parties and representatives of all agencies prior to the  
 4447 comprehensive services plan hearing and review hearings;  
 4448 (2) Identifying to the court any person who should provide testimony at the  
 4449 comprehensive services plan hearing; and  
 4450 (3) Monitoring the comprehensive services plan, presenting to the court amendments to  
 4451 the plan as needed, and presenting evidence to the court for the reapproval of the plan at  
 4452 subsequent review hearings.

4453 15-11-451.

4454 (a) The court shall hold a comprehensive services plan hearing within 30 days after the  
4455 comprehensive services plan has been submitted to the court for the purpose of approving  
4456 the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six  
4457 months for the purpose of reviewing such child's condition and approving the  
4458 comprehensive services plan.

4459 (b) The persons required to be notified of a comprehensive services plan hearing and  
4460 witnesses identified by a plan manager shall be given at least ten days' prior notice of the  
4461 hearing and any subsequent hearing to review such child's condition and shall be afforded  
4462 an opportunity to be heard at any such hearing. The victim, if any, of a child's alleged  
4463 delinquent act shall also be provided with the same ten days' prior notice and shall be  
4464 afforded an opportunity to be heard and to present a victim impact form as provided in  
4465 Code Section 17-10-1.1 to the court at the comprehensive services plan hearing. The judge  
4466 shall make a determination regarding sequestration of witnesses in order to protect the  
4467 privileges and confidentiality rights of a child adjudicated to be unrestorably incompetent  
4468 to proceed under Article 7 of this chapter.

4469 (c) At the comprehensive services plan hearing, the court shall enter an order incorporating  
4470 a comprehensive services plan as part of the disposition of the comprehensive services plan  
4471 hearing. At the time of the disposition, a child shall be placed in an appropriate treatment  
4472 setting, as recommended by the examiner, unless such child has already been placed in an  
4473 appropriate treatment setting pursuant to subsection (d) of Code Section 15-11-656.

4474 (d) If, during the comprehensive services plan hearing or any subsequent review hearing,  
4475 the court determines that a child meets criteria for civil commitment, such child may be  
4476 committed to an appropriate treatment setting.

4477 (e) At any time, in the event of a change in circumstances regarding such child, the court  
4478 on its own motion or on the motion of the attorney representing such child, any guardian  
4479 ad litem for such child, the person who filed the petition alleging that a child is in need of  
4480 services or committed a delinquent act, or the plan manager may set a hearing for review  
4481 of the comprehensive services plan and any proposed amendments to such plan. The court  
4482 may issue an appropriate order incorporating an amended plan.

4483 (f) If a child is under a comprehensive services plan when he or she reaches the age of 18,  
4484 the plan manager shall make a referral for appropriate adult services.

4485 ARTICLE 6

4486 Part 1

4487 15-11-470.

4488 The purpose of this article is:

4489 (1) Consistent with the protection of the public interest, to hold a child committing  
 4490 delinquent acts accountable for his or her actions, taking into account such child's age,  
 4491 education, mental and physical condition, background, and all other relevant factors, but  
 4492 to mitigate the adult consequences of criminal behavior;

4493 (2) To accord due process of law to each child who is accused of having committed a  
 4494 delinquent act;

4495 (3) To provide for a child committing delinquent acts with supervision, care, and  
 4496 rehabilitation which ensure balanced attention to the protection of the community, the  
 4497 imposition of accountability, and the development of competencies to enable such child  
 4498 to become a responsible and productive member of the community;

4499 (4) To promote a continuum of services for a child and his or her family from prevention  
 4500 of delinquent acts to aftercare, considering, whenever possible, prevention, diversion, and  
 4501 early intervention, including an emphasis on community based alternatives;

4502 (5) To provide effective sanctions to acts of juvenile delinquency; and

4503 (6) To strengthen families and to successfully reintegrate delinquent children into homes  
 4504 and communities.

4505 15-11-471.

4506 As used in this article, the term:

4507 (1) 'AIDS transmitting crime' shall have the same meaning as set forth in Code Section  
 4508 31-22-9.1.

4509 (2) 'Behavioral health evaluation' means a court ordered evaluation completed by a  
 4510 licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated  
 4511 of a delinquent act so as to provide the juvenile court with information and  
 4512 recommendations relevant to the behavioral health status and mental health treatment  
 4513 needs of such child.

4514 (3) 'Community rehabilitation center' means a rehabilitation and custodial center  
 4515 established within a county for the purpose of assisting in the rehabilitation of delinquent  
 4516 children and children in need of services in a neighborhood and family environment in  
 4517 cooperation with community educational, medical, and social agencies. Such center  
 4518 shall:

- 4519 (A) Be located within any county having a juvenile court presided over by at least one  
 4520 full-time judge exercising jurisdiction exclusively over juvenile matters; and
- 4521 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the  
 4522 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The  
 4523 charter, bylaws, and method of selecting the board of directors and chief executive  
 4524 officer of such nonprofit corporation shall be subject to the unanimous approval of the  
 4525 chief judge of the judicial circuit in which the county is located, the judge or judges of  
 4526 the juvenile court, the superintendent of the county school district, and the  
 4527 commissioner of juvenile justice; such approval shall be in writing and shall be  
 4528 appended to the charter and bylaws of the nonprofit organization. Any amendment of  
 4529 the charter or bylaws of the nonprofit corporation shall be subject to the same written  
 4530 approval as the original charter and bylaws.
- 4531 (4) 'Determined to be infected with HIV' means having a confirmed positive human  
 4532 immunodeficiency virus (HIV) test or having been clinically diagnosed as having AIDS.
- 4533 (5) 'Graduated sanctions' means:
- 4534 (A) Verbal and written warnings;
- 4535 (B) Increased restrictions and reporting requirements;
- 4536 (C) Community service;
- 4537 (D) Referral to treatment and counseling programs in the community;
- 4538 (E) Weekend programming;
- 4539 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;
- 4540 (G) Curfew;
- 4541 (H) An intensive supervision program; or
- 4542 (I) A home confinement program.
- 4543 (6) 'Hearing officer' means a DJJ employee or county juvenile probation office  
 4544 employee, as applicable, who has been selected and appointed by DJJ or the county  
 4545 juvenile probation office, as applicable, to hear cases alleging violations of probation for  
 4546 administrative sanctioning. A hearing officer shall not be a probation officer who has  
 4547 direct supervision over the child who is the subject of the hearing.
- 4548 (7) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to  
 4549 indicate the presence of HIV in the human body, and such test has been approved for  
 4550 such purposes by the regulations of the Department of Community Health.
- 4551 (8) 'Intensive supervision' means the monitoring of a child's activities on a more frequent  
 4552 basis than regular aftercare supervision, pursuant to regulations of the commissioner of  
 4553 juvenile justice.
- 4554 (9) 'Low risk' means the lowest risk to recidivate as calculated by a risk assessment.

4555 (10) 'Moderate risk or high risk' means a calculation by a risk assessment that is not low  
 4556 risk.

4557 (11) 'Probation management program' means a special condition of probation that  
 4558 includes graduated sanctions.

4559 (12) 'Secure probation sanctions program' means confinement in a secure residential  
 4560 facility or nonsecure residential facility for seven, 14, or 30 days.

4561 15-11-472.

4562 (a) A detention hearing shall be held promptly and no later than:

4563 (1) Two business days after an alleged delinquent child is placed in preadjudication  
 4564 custody if he or she is taken into custody without an arrest warrant; or

4565 (2) Five business days after an alleged delinquent child is placed in preadjudication  
 4566 custody if he or she is taken into custody pursuant to an arrest warrant.

4567 (b) If an alleged delinquent child is placed in preadjudication custody without an arrest  
 4568 warrant and the detention hearing cannot be held within 48 hours because the expiration  
 4569 of the 48 hours falls on a weekend or legal holiday, the court shall review the detention  
 4570 assessment and the decision to detain such child and make a finding based on probable  
 4571 cause within 48 hours of such child being placed in preadjudication custody.

4572 (c) If an alleged delinquent child is released from preadjudication custody at the detention  
 4573 hearing or was never taken into custody, the following time frames shall apply:

4574 (1) Any petition alleging delinquency shall be filed within 30 days of the filing of the  
 4575 complaint or within 30 days after such child is released from preadjudication custody.

4576 If a complaint was not filed, the complaint shall be filed within the statute of limitations  
 4577 as provided by Chapter 3 of Title 17;

4578 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4579 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of  
 4580 the petition alleging delinquency;

4581 (4) The adjudication hearing shall be held no later than 60 days from the filing of the  
 4582 petition alleging delinquency unless a continuance is granted as provided in Code Section  
 4583 15-11-478; and

4584 (5) The disposition hearing shall be held within 30 days of the adjudication hearing  
 4585 unless the court makes written findings of fact explaining the delay.

4586 (d) If an alleged delinquent child is not released from preadjudication custody at the  
 4587 detention hearing, the following time frames shall apply:

4588 (1) The petition alleging delinquency shall be filed within 72 hours of the detention  
 4589 hearing;

4590 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4591 (3) The adjudication hearing shall be held no later than ten days after the filing of the  
4592 petition alleging delinquency unless a continuance is granted as provided in Code Section  
4593 15-11-478; and

4594 (4) The disposition hearing shall be held within 30 days of the adjudication hearing  
4595 unless the court makes written findings of fact explaining the delay.

4596 (e) For purposes of this Code section, preadjudication custody begins when a juvenile  
4597 court intake officer authorizes the placement of a child in a secure residential facility.

4598 (f) A child who is released from detention but subject to conditions of release shall not be  
4599 considered to be in detention for purposes of calculating time frames set forth in this article  
4600 or for purposes of calculating time served.

4601 15-11-473.

4602 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4603 (b) Except as provided in Article 9 of this chapter, in any delinquency proceeding, the  
4604 prosecuting attorney shall be entitled to complete access to all court files, probation files,  
4605 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be  
4606 the duty of the clerk, probation and intake officer, probation officers of the juvenile court,  
4607 and DJJ to assist a prosecuting attorney in obtaining any requested items.

4608 15-11-474.

4609 (a) An alleged delinquent child and the state shall be parties at all stages of delinquency  
4610 proceedings.

4611 (b) A parent, guardian, or legal custodian of an alleged delinquent child shall have the  
4612 right to notice, the right to be present in the courtroom, and the opportunity to be heard at  
4613 all stages of delinquency proceedings.

4614 (c) DJJ shall receive notice of the disposition hearing.

4615 15-11-475.

4616 (a) An alleged delinquent child shall have the right to be represented by an attorney at all  
4617 proceedings under this article.

4618 (b) A parent, guardian, or legal custodian of an alleged delinquent child shall not waive  
4619 his or her child's right to be represented by an attorney.

4620 (c) An alleged delinquent child may waive the right to an attorney under limited  
4621 circumstances as set forth in subsection (b) of Code Section 15-11-511, but if a child's  
4622 liberty is in jeopardy, he or she shall be represented by an attorney.

4623 (d) Upon a motion by an attorney for an alleged delinquent child, together with written  
4624 permission of such child, a judge shall issue an order providing that such child's attorney

4625 shall have access to all dependency, school, hospital, physician, or other health or mental  
4626 health care records relating for such child.

4627 15-11-476.

4628 (a) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and  
4629 a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

4630 (b) The court shall appoint a separate guardian ad litem whenever:

4631 (1) An alleged delinquent child appears before the court without his or her parent,  
4632 guardian, or legal custodian;

4633 (2) It appears to the court that a parent, guardian, or legal custodian of an alleged  
4634 delinquent child is incapable or unwilling to make decisions in the best interests of such  
4635 child with respect to proceedings under this article such that there may be a conflict of  
4636 interest between such child and his or her parent, guardian, or legal custodian; or

4637 (3) The court finds that it is otherwise in a child's best interests to do so.

4638 (c) The role of a guardian ad litem in a delinquency proceeding shall be the same role as  
4639 provided for in all dependency proceedings under Article 3 of this chapter.

4640 (d) Neither a child's attorney in a delinquency proceeding nor his or her parent, guardian,  
4641 or legal custodian shall prohibit or impede access to such child by the guardian ad litem.

4642 15-11-477.

4643 (a) At any time prior to the issuance of a final dispositional order, the court may order a  
4644 behavioral health evaluation of a child alleged to be or adjudicated as a delinquent child  
4645 which may be conducted by DBHDD or a private psychologist or psychiatrist.

4646 (b) The court shall order and give consideration to the results of a child's behavioral health  
4647 evaluation before ordering a child adjudicated for a class A designated felony act or class  
4648 B designated felony act placed in restrictive custody; provided, however, that such order  
4649 shall not be required if the court has considered the results of a prior behavioral health  
4650 evaluation of such child that had been completed in the preceding six months.

4651 (c) Statements made by a child during a behavioral health evaluation shall only be  
4652 admissible into evidence as provided in Code Section 15-11-479.

4653 15-11-478.

4654 A continuance shall be granted only upon a showing of good cause and only for that period  
4655 of time shown to be necessary by the moving party at the hearing on the motion.  
4656 Whenever any continuance is granted, the facts which require the continuance shall be  
4657 entered into the court record.

4658 15-11-479.

4659 Voluntary statements made in the course of intake screening of a child alleged to be or  
4660 adjudicated as a delinquent child or in the course of his or her treatment, any evaluation,  
4661 or any other related services shall be inadmissible in any adjudication hearing in which  
4662 such child is the accused and shall not be considered by the court except such statement  
4663 shall be admissible as rebuttal or impeachment evidence.

4664 15-11-480.

4665 (a) When a child enters a denial to a petition alleging his or her delinquency, jeopardy  
4666 attaches when the first witness is sworn at the adjudication hearing.

4667 (b) When a child enters an admission to a petition alleging his or her delinquency,  
4668 jeopardy attaches when the court accepts the admission.

4669 15-11-481.

4670 (a) The victim of a child's alleged delinquent act shall be entitled to the same rights,  
4671 notices, and benefits as the victim of a crime committed by an adult as set forth in Chapters  
4672 14, 15, 15A, and 17 of Title 17. The rights, notices, and benefits to a victim set forth in this  
4673 article shall not be construed to deny or diminish the rights, notices, and benefits set forth  
4674 in Chapters 14, 15, 15A, and 17 of Title 17.

4675 (b) In any delinquency proceeding in which a petition has been filed, the prosecuting  
4676 attorney shall notify any victim of a child's alleged delinquent act that the victim may  
4677 submit a victim impact form as provided in Code Section 17-10-1.1.

4678 (c) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and  
4679 disclosure of the victim impact form.

4680 (d) Prior to the imposition of a dispositional order for a child adjudicated for a delinquent  
4681 act, the juvenile court shall permit the victim, the family of the victim, or other witness  
4682 with personal knowledge of the delinquent act to testify about the impact of the delinquent  
4683 act on the victim, the victim's family, or the community. Except as provided in subsection  
4684 (f) of this Code section, such evidence shall be given in the presence of the child  
4685 adjudicated for a delinquent act and shall be subject to cross-examination.

4686 (e) The admissibility of the evidence described in subsection (d) of this Code section shall  
4687 be in the sole discretion of the judge and in any event shall be permitted only in such a  
4688 manner and to such a degree as not to unduly prejudice the child adjudicated for a  
4689 delinquent act. If the judge excludes evidence, the state shall be allowed to make an offer  
4690 of proof.

4691 (f) Upon a finding by the court specific to the case and the witness that the witness would  
4692 not be able to testify in person without showing undue emotion or that testifying in person

4693 will cause the witness severe physical or emotional distress or trauma, evidence presented  
 4694 pursuant to subsection (b) of this Code section may be in the form of, but not limited to,  
 4695 a written statement or a prerecorded audio or video statement, provided that such witness  
 4696 is subject to cross-examination. Photographs of the victim may be included with any  
 4697 evidence presented pursuant to subsection (b) of this Code section.

4698 (g) In presenting such evidence, the victim, the family of the victim, or other witness  
 4699 having personal knowledge of the impact of the delinquent act on the victim, the victim's  
 4700 family, or the community shall, if applicable:

4701 (1) Describe the nature of the delinquent act;

4702 (2) Itemize any economic loss suffered by the victim or the family of the victim, if  
 4703 restitution is sought;

4704 (3) Identify any physical injury suffered by the victim as a result of the delinquent act  
 4705 along with its seriousness and permanence;

4706 (4) Describe any change in the victim's personal welfare or familial relationships as a  
 4707 result of the delinquent act;

4708 (5) Identify any request for psychological services initiated by the victim or the victim's  
 4709 family as a result of the delinquent act; and

4710 (6) Include any other information related to the impact of the delinquent act upon the  
 4711 victim, the victim's family, or the community that the court inquires of.

4712 (h) The court shall allow the child adjudicated for a delinquent act the opportunity to  
 4713 cross-examine and rebut the evidence presented of the victim's personal characteristics and  
 4714 the emotional impact of the delinquent act on the victim, the victim's family, or the  
 4715 community, and such cross-examination and rebuttal evidence shall be subject to the same  
 4716 discretion set forth in subsection (d) of this Code section.

4717 (i) No disposition of a child adjudicated as delinquent shall be invalidated because of  
 4718 failure to comply with the provisions of this Code section. This Code section shall not be  
 4719 construed to create any cause of action or any right of appeal on behalf of the victim, the  
 4720 state, or such child; provided, however, that if the court intentionally fails to comply with  
 4721 this Code section, the victim may file a complaint with the Judicial Qualifications  
 4722 Commission.

4723 Part 2

4724 15-11-490.

4725 (a) A proceeding under this article may be commenced:

4726 (1) In the county in which an allegedly delinquent child legally resides; or

4727 (2) In any county in which the alleged delinquent acts occurred.

4728 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,  
 4729 the adjudicating court may retain jurisdiction over the disposition of a nonresident child or  
 4730 may transfer the proceeding to the county of such child's residence for disposition. Like  
 4731 transfer may be made if the residence of such child changes pending the proceeding.

4732 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition  
 4733 of a nonresident child, the adjudicating court shall communicate to the court of the county  
 4734 of such child's residence the fact that such child has been adjudicated to have committed  
 4735 a delinquent act. Such communication shall state the date upon which the adjudicating  
 4736 court plans to enter an order for disposition of such nonresident child and shall request any  
 4737 information or recommendations relevant to the disposition of such nonresident child. Any  
 4738 such recommendation shall be considered by but shall not be binding upon the adjudicating  
 4739 court in making its order for disposition.

4740 (d) When any case is transferred, certified copies of all documents and records pertaining  
 4741 to the case on file with the clerk of the court shall accompany the transfer order.  
 4742 Compliance with this subsection shall terminate jurisdiction in the transferring court and  
 4743 initiate jurisdiction in the receiving court.

4744 Part 3

4745 15-11-500.

4746 If it appears from a filed affidavit or from sworn testimony before the court that the  
 4747 conduct, condition, or surroundings of an alleged delinquent child are endangering such  
 4748 child's health or welfare or those of others or that such child may abscond or be removed  
 4749 from the jurisdiction of the court or will not be brought before the court, notwithstanding  
 4750 the service of the summons, the court may endorse upon the summons an order that a law  
 4751 enforcement officer shall serve the summons and take such child into immediate custody  
 4752 and bring him or her forthwith before the court.

4753 15-11-501.

4754 (a) An alleged delinquent child may be taken into custody:

4755 (1) Pursuant to an order of the court under this article, including an order to a DJJ  
 4756 employee to apprehend:

4757 (A) When he or she has escaped from an institution or facility operated by DJJ; or

4758 (B) When he or she has been placed under supervision and has violated its conditions;

4759 (2) Pursuant to the laws of arrest; or

4760 (3) By a law enforcement officer or duly authorized officer of the court if there are  
 4761 reasonable grounds to believe that a child has committed a delinquent act.

4762 (b) A law enforcement officer taking a child into custody shall promptly give notice  
 4763 together with a statement of the reasons for taking such child into custody to his or her  
 4764 parent, guardian, or legal custodian and to the court.

4765 (c) When a child who is taken into custody has committed an act which would constitute  
 4766 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of such  
 4767 child having been taken into custody, shall notify the prosecuting attorney of the judicial  
 4768 circuit in which the juvenile proceedings are to be instituted.

4769 15-11-502.

4770 (a) A person taking an alleged delinquent child into custody, with all reasonable speed and  
 4771 without first taking such child elsewhere, shall:

4772 (1) Immediately release such child, without bond, to his or her parent, guardian, or legal  
 4773 custodian upon such person's promise to bring such child before the court when requested  
 4774 by the court;

4775 (2) Immediately deliver such child to a medical facility if such child is believed to suffer  
 4776 from a serious physical condition or illness which requires prompt treatment and, upon  
 4777 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being  
 4778 notified by the person taking such child into custody, the juvenile court intake officer  
 4779 shall determine if such child can be administered a detention assessment and if so, shall  
 4780 conduct such assessment and determine if such child should be released, remain in  
 4781 protective custody, or be brought before the court; or

4782 (3) Bring such child immediately before the juvenile court or promptly contact a juvenile  
 4783 court intake officer. The court or juvenile court intake officer shall determine if such  
 4784 child should be released or detained. All determinations and court orders regarding  
 4785 detention shall comply with the requirements of this article and shall be based on an  
 4786 individual detention assessment of such child and his or her circumstances.

4787 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may  
 4788 detain an alleged delinquent child for a reasonable period of time sufficient to conduct  
 4789 interrogations and perform routine law enforcement procedures including but not limited  
 4790 to fingerprinting, photographing, and the preparation of any necessary records.

4791 (c) Prior to a detention hearing, an alleged delinquent child shall be placed in detention,  
 4792 if necessary, only in such places as are authorized by Code Section 15-11-504.

4793 15-11-503.

4794 (a) Restraints on the freedom of an alleged delinquent child prior to adjudication shall be  
 4795 imposed only when there is probable cause to believe that such child committed the act of

4796 which he or she is accused, that there is clear and convincing evidence that such child's  
4797 freedom should be restrained, that no less restrictive alternatives will suffice, and that:

4798 (1) Such child's detention or care is required to reduce the likelihood that he or she may  
4799 inflict serious bodily harm on others during the interim period;

4800 (2) Such child has a demonstrated pattern of theft or destruction of property such that  
4801 detention is required to protect the property of others;

4802 (3) Such child's detention is necessary to secure his or her presence in court to protect  
4803 the jurisdiction and processes of the court; or

4804 (4) An order for such child's detention has been made by the court.

4805 (b) All children who are detained shall be informed of their right to bail as provided by  
4806 Code Section 15-11-507.

4807 (c) An alleged delinquent child shall not be detained:

4808 (1) To punish, treat, or rehabilitate him or her;

4809 (2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal  
4810 responsibilities;

4811 (3) To satisfy demands by a victim, law enforcement, or the community;

4812 (4) To permit more convenient administrative access to him or her;

4813 (5) To facilitate further interrogation or investigation; or

4814 (6) Due to a lack of a more appropriate facility.

4815 (d) Whenever an alleged delinquent child cannot be unconditionally released, conditional  
4816 or supervised release that results in the least necessary interference with the liberty of such  
4817 child shall be favored over more intrusive alternatives.

4818 (e) Whenever the curtailment of the freedom of an alleged delinquent child is permitted,  
4819 the exercise of authority shall reflect the following values:

4820 (1) Respect for the privacy, dignity, and individuality of such child and his or her family;

4821 (2) Protection of the psychological and physical health of such child;

4822 (3) Tolerance of the diverse values and preferences among different groups and  
4823 individuals;

4824 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

4825 (5) Avoidance of regimentation and depersonalization of such child;

4826 (6) Avoidance of stigmatization of such child; and

4827 (7) Assurance that such child has been informed of his or her right to consult with an  
4828 attorney and that, if such child is an indigent person, an attorney will be provided.

4829 (f) Before entering an order authorizing detention, the court shall determine whether a  
4830 child's continuation in his or her home is contrary to his or her welfare and whether there  
4831 are available services that would prevent or eliminate the need for detention. The court

4832 shall make that determination on a case-by-case basis and shall make written findings of  
4833 fact referencing any and all evidence relied upon in reaching its decision.

4834 (g) If an alleged delinquent child can remain in the custody of his or her parent, guardian,  
4835 or legal custodian through the provision of services to prevent the need for removal, the  
4836 court shall order that such services shall be provided.

4837 15-11-504.

4838 (a) An alleged delinquent child may be detained only in:

4839 (1) A licensed foster home;

4840 (2) A home approved by the court which may be a public or private home;

4841 (3) The home of such child's noncustodial parent or of a relative;

4842 (4) A facility operated by a licensed child welfare agency; or

4843 (5) A secure residential facility or nonsecure residential facility.

4844 (b) Placement shall be made in the least restrictive facility available consistent with the  
4845 best interests of the child.

4846 (c) A child 15 years of age or older and alleged to be a delinquent child may be held in a  
4847 jail or other facility for the detention of adults for identification or processing procedures  
4848 or while awaiting transportation only so long as necessary to complete such activities for  
4849 up to six hours, or for up to 24 hours if the closest secure residential facility is more than  
4850 70 miles from such facility, if all of the following apply:

4851 (1) Such child is detained for the commission of a crime that would constitute a class A  
4852 designated felony act, class B designated felony act, or a serious violent felony as defined  
4853 in Code Section 17-10-6.1;

4854 (2) Such child is awaiting a detention hearing;

4855 (3) Such child's detention hearing is scheduled within 24 hours after being taken into  
4856 custody, excluding weekends and legal holidays;

4857 (4) There is no existing acceptable alternative placement for such child; and

4858 (5) The jail or other facility for the detention of adults provides sight and sound  
4859 separation for children, including:

4860 (A) Total separation between children and adult facility spatial areas such that there is  
4861 no verbal, visual, or physical contact and there could be no haphazard or accidental  
4862 contact between child and adult residents in the respective facilities;

4863 (B) Total separation in all program activities for children and adults within the  
4864 facilities, including recreation, education, counseling, health care, dining, sleeping, and  
4865 general living activities;

4866 (C) Continuous visual supervision of a child; and

4867 (D) Separate staff for children and adults, specifically direct care staff such as  
 4868 recreation, education, and counseling, although specialized services staff, such as  
 4869 cooks, bookkeepers, and medical professionals who are not normally in contact with  
 4870 detainees or whose infrequent contacts occur under conditions of separation of children  
 4871 and adults, can serve both.

4872 (d) A child shall not be transported with adults who have been charged with or convicted  
 4873 of a crime. DJJ may transport a child with children who have been charged with or  
 4874 convicted of a crime in superior court.

4875 (e) The official in charge of a jail or other facility for the detention of adult offenders or  
 4876 persons charged with a crime shall inform the court or the juvenile court intake officer  
 4877 immediately when a child who appears to be under the age of 17 years is received at such  
 4878 facility and shall deliver such child to the court upon request or transfer such child to the  
 4879 facility designated by the juvenile court intake officer or the court.

4880 (f) All facilities shall maintain data on each child detained and such data shall be recorded  
 4881 and retained by the facility for three years and shall be made available for inspection during  
 4882 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, by the  
 4883 Governor's Office for Children and Families, and by the Council of Juvenile Court Judges.  
 4884 The required data are each detained child's:

4885 (1) Name;

4886 (2) Date of birth;

4887 (3) Sex;

4888 (4) Race;

4889 (5) Offense or offenses for which such child is being detained;

4890 (6) Date of and authority for confinement;

4891 (7) Location of the offense and the name of the school if the offense occurred in a school  
 4892 safety zone, as defined in Code Section 16-11-127.1;

4893 (8) The name of the referral source, including the name of the school if the referring  
 4894 source was a school;

4895 (9) The score on the detention assessment;

4896 (10) The basis for detention if such child's detention assessment score does not in and  
 4897 of itself mandate detention;

4898 (11) The reason for detention, which may include, but shall not be limited to,  
 4899 preadjudication detention, detention while awaiting a postdisposition placement, or  
 4900 servng a short-term program disposition;

4901 (12) Date of and authority for release or transfer; and

4902 (13) Transfer or to whom released.

4903 15-11-505.

4904 If an alleged delinquent child is brought before the court or delivered to a secure residential  
 4905 facility or nonsecure residential facility or foster care facility designated by the court, the  
 4906 juvenile court intake officer shall immediately administer a detention assessment and  
 4907 determine if such child should be detained and release such child unless it appears that his  
 4908 or her detention is warranted.

4909 15-11-506.

4910 (a) A detention hearing shall be held to determine whether preadjudication custody of an  
 4911 alleged delinquent child is required. If such hearing is not held within the time specified,  
 4912 such child shall be released from detention or foster care.

4913 (b) If an alleged delinquent child is detained and is not released from preadjudication  
 4914 custody, a detention hearing shall be held promptly and not later than:

4915 (1) Two business days after such child is placed in preadjudication custody if such child  
 4916 is taken into custody without an arrest warrant; or

4917 (2) Five business days after such child is placed in preadjudication custody if such child  
 4918 is taken into custody pursuant to an arrest warrant.

4919 (c) If the detention hearing cannot be held within two business days in accordance with  
 4920 paragraph (1) of subsection (b) of this Code section because the date for the hearing falls  
 4921 on a weekend or legal holiday, the court shall review the decision to detain such child and  
 4922 make a finding based on probable cause within 48 hours of such child being placed in  
 4923 preadjudication custody.

4924 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and  
 4925 purpose of the hearing, shall be given to an alleged delinquent child and to his or her  
 4926 parent, guardian, or legal custodian, if he or she can be found. In the event such child's  
 4927 parent, guardian, or legal custodian cannot be found, the court shall forthwith appoint a  
 4928 guardian ad litem for such child.

4929 (e) If an alleged delinquent child is not released from preadjudication custody and his or  
 4930 her parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified  
 4931 of the hearing and did not appear or waive appearance at such hearing and thereafter files  
 4932 an affidavit showing such facts, the court shall rehear the matter without unnecessary delay  
 4933 and shall order such child's release unless it appears from such hearing that such child's  
 4934 detention or foster care is warranted or required.

4935 (f) At the commencement of the detention hearing, the court shall inform an alleged  
 4936 delinquent child of:

4937 (1) The contents of the complaint or petition;

4938 (2) The nature of the proceedings;

- 4939 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and  
 4940 Title 17;
- 4941 (4) The possible consequences or dispositions that may apply to such child's case  
 4942 following adjudication; and
- 4943 (5) His or her due process rights, including the right to an attorney and to an appointed  
 4944 attorney; the privilege against self-incrimination; that he or she may remain silent and  
 4945 that anything said may be used against him or her; the right to confront anyone who  
 4946 testifies against him or her and to cross-examine any persons who appear to testify  
 4947 against him or her; the right to testify and to compel other witnesses to attend and testify  
 4948 in his or her own behalf; the right to a speedy adjudication hearing; and the right to  
 4949 appeal and be provided with a transcript for such purpose.
- 4950 (g) If an alleged delinquent child can be returned to the custody of his or her parent,  
 4951 guardian, or legal custodian through the provision of services to eliminate the need for  
 4952 removal, the court shall release such child to the physical custody of his or her parent,  
 4953 guardian, or legal custodian and order that those services shall be provided.
- 4954 (h) If an alleged delinquent child cannot be returned to the custody of his or her parent,  
 4955 guardian, or legal custodian, a probation officer shall provide referrals for services as soon  
 4956 as possible to enable such child's parent, guardian, or legal custodian to obtain any  
 4957 assistance that may be needed to effectively provide the care and control necessary for such  
 4958 child to return home.
- 4959 (i) For purposes of this Code section, preadjudication custody begins when a juvenile court  
 4960 intake officer authorizes the placement of a child in a secure residential facility.
- 4961 15-11-507.
- 4962 (a) All children alleged to have committed a delinquent act shall have the same right to  
 4963 bail as adults.
- 4964 (b) The judge shall admit to bail all children in the same manner and under the same  
 4965 circumstances and procedures as are applicable to adults accused of the commission of  
 4966 crimes, with the exception that applying for bail, holding a hearing on the application, and  
 4967 granting bail for children alleged to have committed a delinquent act may only occur:
- 4968 (1) At intake in accordance with Code Section 15-11-503; or  
 4969 (2) At the detention hearing in accordance with Code Section 15-11-506.
- 4970 (c) A court shall be authorized to release an alleged delinquent child on bail if the court  
 4971 finds that such child:
- 4972 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to  
 4973 appear in court when required;

- 4974 (2) Poses no significant threat or danger to any person, to the community, or to any  
 4975 property in the community;  
 4976 (3) Poses no significant risk of committing any felony pending trial; and  
 4977 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the  
 4978 administration of justice.  
 4979 (d) If a child is accused of committing an act that would be a serious violent felony, as  
 4980 defined in Code Section 17-10-6.1, if committed by an adult and such child has previously  
 4981 been adjudicated for a delinquent act for committing an act that would be a serious violent  
 4982 felony if committed by an adult, there shall be a rebuttable presumption that no condition  
 4983 or combination of conditions will reasonably assure the appearance of such child as  
 4984 required or assure the safety of any other person or the community.  
 4985 (e) Any person having legal custody or an adult blood relative or stepparent of an alleged  
 4986 delinquent child shall be entitled to post bail but shall be required immediately to return  
 4987 such child to the individual or entity having legal custody of such child.  
 4988 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a  
 4989 child on his or her own recognizance.

4990 15-11-508.

4991 (a) As used in this Code section, the term:

- 4992 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.  
 4993 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.  
 4994 (3) 'Violent delinquent act' means to commit, attempt to commit, conspiracy to commit,  
 4995 or solicitation of another to commit a delinquent act which if committed by an adult  
 4996 would constitute:  
 4997 (A) A serious violent felony as defined by Code Section 17-10-6.1;  
 4998 (B) A class A designated felony act or class B designated felony act;  
 4999 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;  
 5000 or  
 5001 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit  
 5002 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

5003 (b) If a child accused of a violent delinquent act is detained pending adjudication, a  
 5004 juvenile court intake officer shall provide notice to the victim, whenever practicable, that  
 5005 such child is to be released from detention not less than 24 hours prior to such child's  
 5006 release from detention.

5007 (c) Not less than 48 hours prior to a child who has been adjudicated to have committed a  
 5008 violent delinquent act being released from detention or transferred to a nonsecure

5009 residential facility, a juvenile court intake officer shall, whenever practicable, provide  
 5010 notice to the victim of such pending release or transfer.  
 5011 (d) Victim notification need not be given unless a victim has expressed a desire for such  
 5012 notification and has provided a juvenile court intake officer with a current address and  
 5013 telephone number. It shall be the duty of a juvenile court intake officer to advise the victim  
 5014 of his or her right to notification and of the requirement of the victim to provide a primary  
 5015 and personal telephone number to which such notification shall be directed.

5016 Part 4

5017 15-11-510.

5018 (a) If an alleged delinquent child has not been detained after the filing of a complaint, he  
 5019 or she shall be promptly referred to intake or given a date for arraignment.

5020 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the  
 5021 court shall inform a child of:

5022 (1) The contents of the complaint;

5023 (2) The nature of the proceedings;

5024 (3) The possible consequences or dispositions that may apply to such child's case  
 5025 following adjudication; and

5026 (4) His or her due process rights, including the right to an attorney and to an appointed  
 5027 attorney; the privilege against self-incrimination; that he or she may remain silent and  
 5028 that anything said may be used against him or her; the right to confront anyone who  
 5029 testifies against him or her and to cross-examine any persons who appear to testify  
 5030 against him or her; the right to testify and to compel other witnesses to attend and testify  
 5031 in his or her own behalf; the right to a speedy adjudication hearing; and the right to  
 5032 appeal and be provided with a transcript for such purpose.

5033 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment  
 5034 or other nonadjudicatory procedure in accordance with the provisions of Code Section  
 5035 15-11-515.

5036 (d) If a case is to be prosecuted further and handled other than by informal adjustment or  
 5037 other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and  
 5038 a petition for delinquency shall be filed within 30 days of the filing of a complaint.

5039 15-11-511.

5040 (a) At arraignment, the court shall inform a child of:

5041 (1) The contents of the petition alleging delinquency;

5042 (2) The nature of the proceedings;

- 5043 (3) The possible consequences or dispositions that may apply to such child's case  
 5044 following adjudication; and
- 5045 (4) His or her due process rights, including the right to an attorney and to an appointed  
 5046 attorney; the privilege against self-incrimination; that he or she may remain silent and  
 5047 that anything said may be used against him or her; the right to confront anyone who  
 5048 testifies against him or her and to cross-examine any persons who appear to testify  
 5049 against him or her; the right to testify and to compel other witnesses to attend and testify  
 5050 in his or her own behalf; the right to a speedy adjudication hearing; and the right to  
 5051 appeal and be provided with a transcript for such purpose.
- 5052 (b) The court may accept an admission at arraignment and may proceed immediately to  
 5053 disposition if a child is represented by counsel at arraignment or if a child's liberty is not  
 5054 in jeopardy, he or she may waive the right to counsel at arraignment. A child represented  
 5055 by counsel or whose liberty is not in jeopardy may make a preliminary statement indicating  
 5056 whether he or she plans to admit or deny the allegations of the complaint at the  
 5057 adjudication hearing, but the court shall not accept an admission from a child whose liberty  
 5058 is in jeopardy and who is unrepresented by counsel.
- 5059 (c) The court shall appoint an attorney to represent an alleged delinquent child whose  
 5060 liberty is in jeopardy and who is an indigent person.

5061 Part 5

5062 15-11-515.

- 5063 (a) Before a petition for informal adjustment is filed, a probation officer or other officer  
 5064 designated by the court, subject to the court's direction, may inform the parties of informal  
 5065 adjustment if it appears that:
- 5066 (1) The admitted facts bring the case within the jurisdiction of the court;  
 5067 (2) Counsel and advice without an adjudication would be in the best interests of the  
 5068 public and a child, taking into account at least the following factors:
- 5069 (A) The nature of the alleged offense;  
 5070 (B) The age and individual circumstances of such child;  
 5071 (C) Such child's prior record, if any;  
 5072 (D) Recommendations for informal adjustment made by the complainant or the victim;  
 5073 and  
 5074 (E) Services to meet such child's needs and problems may be unavailable within the  
 5075 formal court system or may be provided more effectively by alternative community  
 5076 programs; and

5077 (3) A child and his or her parent, guardian, or legal custodian consent with knowledge  
 5078 that consent is not obligatory.

5079 (b) The giving of counsel and advice shall not extend beyond three months unless  
 5080 extended by the court for an additional period not to exceed three months and shall not  
 5081 authorize the detention of a child if not otherwise permitted by this article.

5082 (c) An incriminating statement made by a participant in an informal adjustment to the  
 5083 person giving counsel or advice and in the discussion or conferences incident thereto shall  
 5084 not be used against the declarant over objection in any hearing except in a hearing on  
 5085 disposition in a juvenile court proceeding or in a criminal proceeding upon conviction for  
 5086 the purpose of a presentence investigation.

5087 (d) If a child is alleged to have committed a class A designated felony act or class B  
 5088 designated felony act, the case shall not be subject to informal adjustment, counsel, or  
 5089 advice without the prior consent of the district attorney or his or her authorized  
 5090 representative.

5091 Part 6

5092 15-11-520.

5093 A petition alleging delinquency shall be filed by an attorney as set forth in Code Section  
 5094 15-18-6.1.

5095 15-11-521.

5096 (a) If a child is in detention prior to adjudication, a petition alleging delinquency shall be  
 5097 filed not later than 72 hours after the detention hearing. If no petition alleging delinquency  
 5098 is filed within the applicable time, such child shall be released from detention and the  
 5099 complaint shall be dismissed without prejudice. Such petition may be refiled as provided  
 5100 in subsection (b) of this Code section within the statute of limitations.

5101 (b) If a child is not in detention prior to adjudication, a petition alleging delinquency shall  
 5102 be filed within 30 days of the filing of the complaint alleging violation of a criminal law  
 5103 or within 30 days of such child's release pursuant to a determination that detention is not  
 5104 warranted. Upon a showing of good cause and notice to all parties, the court may grant an  
 5105 extension of time for filing a petition alleging delinquency. The court shall issue a written  
 5106 order reciting the facts justifying any extension.

5107 15-11-522.

5108 A petition alleging delinquency shall be verified and may be on information and belief. It  
 5109 shall set forth plainly and with particularity:

5110 (1) The facts which bring a child within the jurisdiction of the court, with a statement  
 5111 that it is in the best interests of such child and the public that the proceeding be brought  
 5112 and that such child is in need of supervision, treatment, or rehabilitation, as the case may  
 5113 be;

5114 (2) The name, age, and residence address of such child on whose behalf such petition is  
 5115 brought;

5116 (3) The name and residence address of such child's parent, guardian, or legal custodian;  
 5117 or, if such child's parent, guardian, or legal custodian does not reside or cannot be found  
 5118 within this state or if such place of residence address is unknown, the name of any of such  
 5119 child's known adult relative residing within the county or, if there is none, such child's  
 5120 known adult relative residing nearest to the location of the court;

5121 (4) If a child is in custody, the place of his or her detention and the time such child was  
 5122 taken into custody;

5123 (5) If a child is being charged with a class A designated felony act or class B designated  
 5124 felony act; and

5125 (6) Whether any of the information required by this Code section is unknown.

5126 15-11-523.

5127 (a) A prosecuting attorney may amend a petition alleging delinquency at any time prior  
 5128 to the commencement of the adjudication hearing. However, if an amendment is made, a  
 5129 child may request a continuance of his or her adjudication hearing. A continuance may be  
 5130 granted by the court for such period as required in the interest of justice.

5131 (b) When a petition alleging delinquency is amended to include material changes to the  
 5132 allegations or new charges of delinquency for adjudication, the petition shall be served in  
 5133 accordance with Code Sections 15-11-530 and 15-11-531.

5134 (c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include  
 5135 new charges of delinquency.

5136 Part 7

5137 15-11-530.

5138 (a) The court shall direct the issuance of a summons to a child and his or her parent,  
 5139 guardian, or legal custodian requiring them to appear before the court at the time fixed to  
 5140 answer the allegations of a petition alleging delinquency. A copy of the petition shall  
 5141 accompany the summons.

5142 (b) The summons shall state that a party shall be entitled to have an attorney in the  
 5143 proceedings and that the court will appoint an attorney if the party is an indigent person.

5144 15-11-531.

5145 (a) If a party to be served with a summons is within this state and can be found, the  
5146 summons shall be served upon him or her personally as soon as possible and at least 24  
5147 hours before the adjudication hearing.

5148 (b) If a party to be served is within this state and cannot be found but his or her address is  
5149 known or can be ascertained with due diligence, the summons shall be served upon such  
5150 party at least five days before the adjudication hearing by mailing him or her a copy by  
5151 registered or certified mail or statutory overnight delivery, return receipt requested.

5152 (c) If an individual to be served is outside this state but his or her address is known or can  
5153 be ascertained with due diligence, notice of the summons shall be made at least five days  
5154 before the adjudication hearing either by delivering a copy to such party personally or by  
5155 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,  
5156 return receipt requested.

5157 (d) Service of the summons may be made by any suitable person under the direction of the  
5158 court.

5159 (e) The court may authorize payment from county funds of the costs of service and of  
5160 necessary travel expenses incurred by persons summoned or otherwise required to appear  
5161 at the hearing.

5162 15-11-532.

5163 (a) In the event a child's parent, guardian, or legal custodian willfully fails to appear  
5164 personally at a hearing on a petition alleging delinquency after being ordered to so appear  
5165 or a child's parent, guardian, or legal custodian willfully fails to bring such child to a  
5166 hearing after being so directed, the court may issue a rule nisi against the person directing  
5167 the person to appear before the court to show cause why he or she should not be held in  
5168 contempt of court.

5169 (b) If a parent, guardian, or legal custodian of the alleged delinquent child fails to appear  
5170 in response to an order to show cause, the court may issue a bench warrant directing that  
5171 such parent, guardian, or legal custodian be brought before the court without delay to show  
5172 cause why he or she should not be held in contempt and the court may enter any order  
5173 authorized by the provisions of Code Section 15-11-31.

5174 (c) If a child 16 years of age or older fails to appear at a hearing on a petition alleging  
5175 delinquency after being ordered to so appear, the court may issue a bench warrant requiring  
5176 that such child be brought before the court without delay and the court may enter any order  
5177 authorized by the provisions of Code Section 15-11-31.

5178 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
5179 willfully refuses to appear at a hearing on a petition alleging delinquency after being

5180 ordered to so appear, the court may issue a bench warrant requiring that such child be  
 5181 brought before the court and the court may enter any order authorized by the provisions of  
 5182 Code Section 15-11-31.

5183 Part 8

5184 15-11-540.

5185 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting  
 5186 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5187 15-11-541.

5188 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which  
 5189 a child is charged with having committed a delinquent act, such child shall, upon filing a  
 5190 motion for discovery with the court and serving a copy of the motion to the prosecuting  
 5191 attorney, have full access to the following for inspection, copying, or photographing:

5192 (1) A copy of the complaint;

5193 (2) A copy of the petition for delinquency;

5194 (3) The names and last known addresses and telephone numbers of each witness to the  
 5195 occurrence which forms the basis of the charge;

5196 (4) A copy of any written statement made by such child or any witness that relates to the  
 5197 testimony of a person whom the prosecuting attorney intends to call as a witness;

5198 (5) A copy of any written statement made by any alleged coparticipant which the  
 5199 prosecuting attorney intends to use at a hearing;

5200 (6) Transcriptions, recordings, and summaries of any oral statement of such child or of  
 5201 any witness, except attorney work product;

5202 (7) Any scientific or other report which is intended to be introduced at the hearing or that  
 5203 pertains to physical evidence which is intended to be introduced;

5204 (8) Photographs and any physical evidence which are intended to be introduced at the  
 5205 hearing; and

5206 (9) Copies of the police incident report and supplemental report, if any, regarding the  
 5207 occurrence which forms the basis of the charge.

5208 (b) The prosecuting attorney shall disclose all evidence, known or that may become known  
 5209 to him or her, favorable to such child and material either to guilt or punishment.

5210 (c) If a child requests disclosure of information pursuant to subsection (a) of this Code  
 5211 section, it shall be the duty of such child to promptly make the following available for  
 5212 inspection, copying, or photographing to the prosecuting attorney:

- 5213 (1) The names and last known addresses and telephone numbers of each witness to the  
 5214 occurrence which forms the basis of the defense;
- 5215 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
 5216 pertains to physical evidence which is intended to be introduced;
- 5217 (3) Photographs and any physical evidence which he or she intends to introduce at the  
 5218 hearing; and
- 5219 (4) A copy of any written statement made by any witness that relates to the testimony of  
 5220 a person whom the child intends to call as a witness.
- 5221 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
 5222 not later than 48 hours prior to the adjudication hearing, except when later compliance is  
 5223 made necessary by the timing of the request. If the request for discovery is made fewer  
 5224 than 48 hours prior to the adjudication hearing, the discovery response shall be produced  
 5225 in a timely manner.
- 5226 (e) Any material or information furnished to a child pursuant to a discovery request shall  
 5227 remain in the exclusive custody of such child and shall only be used during the pendency  
 5228 of the case and shall be subject to such other terms and conditions as the court may  
 5229 provide.
- 5230 15-11-542.
- 5231 (a) If a request for discovery is refused, application may be made to the court for a written  
 5232 order granting discovery.
- 5233 (b) Motions to compel discovery shall certify that a request for discovery was made and  
 5234 was refused.
- 5235 (c) An order granting discovery shall require reciprocal discovery.
- 5236 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning  
 5237 discovery upon sufficient showing by a person or entity to whom a request for discovery  
 5238 is made that disclosure of the information would:
- 5239 (1) Jeopardize the safety of a party, witness, or confidential informant;  
 5240 (2) Create a substantial threat of physical or economic harm to a witness or other person;  
 5241 (3) Endanger the existence of physical evidence;  
 5242 (4) Disclose privileged information; or  
 5243 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the  
 5244 prosecution of an adult charged with an offense arising from the same transaction or  
 5245 occurrence.

5246 15-11-543.

5247 (a) Upon written request by a prosecuting attorney stating the time, date, and place at  
5248 which the alleged delinquent act was committed, a child shall serve upon the prosecuting  
5249 attorney a written notice of his or her intention to offer a defense of alibi.

5250 (b) A notice to offer an alibi defense shall state the specific place or places at which a child  
5251 claims to have been at the time of the alleged delinquent act and the names, addresses,  
5252 dates of birth, and telephone numbers of the witnesses, if known to the child, upon whom  
5253 such child intends to rely to establish his or her alibi, unless previously supplied.

5254 (c) A request for alibi evidence shall be complied with promptly and not later than 48  
5255 hours prior to the adjudication hearing, except when later compliance is made necessary  
5256 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours  
5257 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.

5258 (d) If a child withdraws his or her notice of intention to rely upon an alibi defense, the  
5259 notice and intention to rely upon an alibi defense shall not be admissible; provided,  
5260 however, that a prosecuting attorney may offer any other evidence regarding alibi.

5261 (e) A prosecuting attorney shall serve upon a child a written notice stating the names,  
5262 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,  
5263 upon whom the state intends to rely to rebut such child's evidence of alibi, unless  
5264 previously supplied.

5265 15-11-544.

5266 If, subsequent to providing a discovery response, the existence of additional evidence is  
5267 found, it shall be promptly provided to the state or child making the discovery request.

5268 15-11-545.

5269 Nothing contained in the provisions governing discovery procedure under this part shall  
5270 prohibit the court from ordering the disclosure of any information that the court deems  
5271 necessary and appropriate for proper adjudication.

5272 15-11-546.

5273 If at any time during the course of the proceedings it is brought to the attention of the court  
5274 that a person or entity has failed to comply with a discovery request, the court may order  
5275 the person or entity to permit the discovery or inspection of evidence, grant a continuance,  
5276 or upon a showing of prejudice and bad faith, prohibit the party from introducing in  
5277 evidence the information not disclosed or presenting the witness not disclosed, or enter  
5278 such other order as the court deems just under the circumstances. The court may specify

5279 the time, place, and manner of making the discovery, inspection, and interview and may  
 5280 prescribe such terms and conditions as are just.

5281 Part 9

5282 15-11-560.

5283 (a) Except as provided in subsection (b) of this Code section, the court shall have  
 5284 concurrent jurisdiction with the superior court over a child who is alleged to have  
 5285 committed a delinquent act which would be considered a crime if tried in a superior court  
 5286 and for which an adult may be punished by loss of life, imprisonment for life without  
 5287 possibility of parole, or confinement for life in a penal institution.

5288 (b) The superior court shall have exclusive original jurisdiction over the trial of any child  
 5289 13 to 17 years of age who is alleged to have committed any of the following offenses:

5290 (1) Murder;

5291 (2) Voluntary manslaughter;

5292 (3) Rape;

5293 (4) Aggravated sodomy;

5294 (5) Aggravated child molestation;

5295 (6) Aggravated sexual battery; or

5296 (7) Armed robbery if committed with a firearm.

5297 (c) The granting of bail or pretrial release of a child charged with an offense enumerated  
 5298 in subsection (b) of this Code section shall be governed by the provisions of Code Section  
 5299 17-6-1.

5300 (d) At any time before indictment, the district attorney may, after investigation and for  
 5301 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to  
 5302 have committed an offense specified in subsection (b) of this Code section. Upon declining  
 5303 such prosecution in the superior court, the district attorney shall cause a petition to be filed  
 5304 in the appropriate juvenile court for adjudication within 72 hours if the child is in detention  
 5305 or 30 days if the child is not in detention. Except as provided in paragraph (8) of  
 5306 subsection (b) of Code Section 15-11-602, any case transferred by the district attorney to  
 5307 the juvenile court pursuant to this subsection shall be subject to the class A designated  
 5308 felony act provisions of Code Section 15-11-602, and the transfer of the case from superior  
 5309 court to juvenile court shall constitute notice to such child that such case is subject to the  
 5310 class A designated felony act provisions of Code Section 15-11-602.

5311 (e) After indictment, the superior court may after investigation and for extraordinary cause  
 5312 transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to  
 5313 have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation,

5314 or aggravated sexual battery. Any such transfer shall be appealable by the State of Georgia  
 5315 pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction  
 5316 shall vest in the juvenile court and jurisdiction of the superior court shall terminate. Except  
 5317 as provided in paragraph (8) of subsection (b) of Code Section 15-11-602, any case  
 5318 transferred by the superior court to the juvenile court pursuant to this subsection shall be  
 5319 subject to the class A designated felony act provisions of Code Section 15-11-602, and the  
 5320 transfer of the case from superior court to juvenile court shall constitute notice to such child  
 5321 that such case is subject to the class A designated felony act provisions of Code Section  
 5322 15-11-602.

5323 (f) The superior court may transfer any case involving a child 13 to 17 years of age alleged  
 5324 to have committed any offense enumerated in subsection (b) of this Code section and  
 5325 convicted of a lesser included offense not included in subsection (b) of this Code section  
 5326 to the juvenile court of the county of such child's residence for disposition. Upon such a  
 5327 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction  
 5328 of the superior court shall terminate.

5329 (g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted  
 5330 of certain offenses over which the superior court has original jurisdiction as provided in  
 5331 subsection (b) of this Code section or adjudicated as a delinquent child on the basis of  
 5332 conduct which if committed by an adult would constitute such offenses, the superior court  
 5333 shall provide written notice to the school superintendent or his or her designee of the school  
 5334 in which such child is enrolled or, if the information is known, of the school in which such  
 5335 child plans to be enrolled at a future date. Such notice shall include the specific criminal  
 5336 offense that such child committed. The local school system to which such child is assigned  
 5337 may request further information from the court's file.

5338 15-11-561.

5339 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,  
 5340 on its own motion or on a motion by a prosecuting attorney, the court may convene a  
 5341 hearing to determine whether to transfer the offense to the appropriate superior court for  
 5342 criminal trial if the court determines that:

5343 (1) There is probable cause to believe that a child committed the alleged offense;

5344 (2) Such child is not committable to an institution for the developmentally disabled or  
 5345 mentally ill; and

5346 (3) The petition alleges that such child:

5347 (A) Was at least 15 years of age at the time of the commission of the offense and  
 5348 committed an act which would be a felony if committed by an adult; or

5349 (B) Was 13 or 14 years of age and either committed an act for which the punishment  
 5350 is loss of life or confinement for life in a penal institution or committed aggravated  
 5351 battery resulting in serious bodily injury to a victim.

5352 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given  
 5353 to a child and his or her parent, guardian, or legal custodian. The notice shall contain a  
 5354 statement that the purpose of the hearing is to determine whether such child is to be tried  
 5355 in the juvenile court or transferred for trial as an adult in superior court. A child may  
 5356 request and the court shall grant a continuance to prepare for the transfer hearing.

5357 (c) After consideration of a probation report, risk assessment, and any other evidence the  
 5358 court deems relevant, including any evidence offered by a child, the court may determine  
 5359 that because of the seriousness of the offense or such child's prior record, the welfare of the  
 5360 community requires that criminal proceedings against such child be instituted.

5361 (d) No child, either before or after reaching 17 years of age, shall be prosecuted in superior  
 5362 court for an offense committed before the child turned 17, unless the case has been  
 5363 transferred as provided in this part. In addition, no child shall be subject to criminal  
 5364 prosecution at any time for an offense arising out of a criminal transaction for which the  
 5365 juvenile court retained jurisdiction in its transfer order.

5366 15-11-562.

5367 (a) The criteria which the court shall consider in determining whether to transfer an alleged  
 5368 delinquent child as set forth in subsection (b) of Code Section 15-11-560 to superior court  
 5369 includes, but shall not be limited to:

5370 (1) The age of such child;

5371 (2) The seriousness of the alleged offense, especially if personal injury resulted;

5372 (3) Whether the protection of the community requires transfer of jurisdiction;

5373 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
 5374 premeditated manner;

5375 (5) The culpability of such child including such child's level of planning and  
 5376 participation in the alleged offense;

5377 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which  
 5378 indicates that such child may be beyond rehabilitation in the juvenile justice system;

5379 (7) The record and history of such child, including experience with the juvenile justice  
 5380 system, other courts, supervision, commitments to juvenile institutions, and other  
 5381 placements;

5382 (8) The sophistication and maturity of such child as determined by consideration of his  
 5383 or her home and environmental situation, emotional condition, and pattern of living;

5384 (9) The program and facilities available to the juvenile court in considering disposition;  
 5385 and  
 5386 (10) Whether or not a child can benefit from the treatment or rehabilitative programs  
 5387 available to the juvenile court.

5388 (b) A probation officer shall prepare a written report developing fully all available  
 5389 information relevant to the transfer criteria. A probation officer shall submit such report  
 5390 to the parties and the court as soon as practicable but not later than 24 hours before the  
 5391 scheduled hearing. The child subject to transfer and the prosecuting attorney shall have the  
 5392 right to review such report and cross-examine the individual making such report.

5393 (c) The court may order a transfer evaluation of a child's clinical status as it may impact  
 5394 the criteria in subsection (a) of this Code section. Statements made by a child in a transfer  
 5395 evaluation shall only be admissible into evidence in an adjudication hearing or in a criminal  
 5396 proceeding as provided by Code Sections 15-11-479 and 15-11-563.

5397 15-11-563.  
 5398 Statements made by a child at a transfer hearing shall not be admissible against such child  
 5399 over objection in a criminal proceedings if transfer is ordered except as impeachment or  
 5400 rebuttal evidence.

5401 15-11-564.  
 5402 (a) The decision of the court regarding transfer of the case shall only be an interlocutory  
 5403 judgment which either a child or the prosecuting attorney, or both, have the right to have  
 5404 reviewed by the Court of Appeals.

5405 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior  
 5406 court. A child transferred for trial as an adult in superior court shall be detained only in  
 5407 those places authorized for the preadjudication detention of a child as set forth in Code  
 5408 Section 15-11-504.

5409 15-11-565.  
 5410 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of  
 5411 an appeal of a judgment ordering a child's transfer, such child shall be detained only in  
 5412 those places authorized for the preadjudication detention of a child as set forth in Code  
 5413 Section 15-11-504.

5414 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those  
 5415 places authorized for the detention of a child until such child, as set forth in Code Section  
 5416 15-11-34, reaches 17 years of age.

5417 15-11-566.

5418 (a) If the court decides to transfer a child for trial in superior court, it shall dismiss the  
5419 juvenile court petition alleging delinquency, set forth the offense or offenses which are  
5420 being transferred, and make the following findings of fact in its dismissal order:

5421 (1) That the court had jurisdiction of the cause and the parties;

5422 (2) That the child subject to transfer was represented by an attorney; and

5423 (3) That the hearing was held in the presence of the child subject to transfer and his or  
5424 her attorney.

5425 (b) The dismissal order shall also recount the reasons underlying the decision to transfer  
5426 jurisdiction.

5427 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the  
5428 juvenile court over such child as to those offenses which are transferred. If the petition  
5429 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,  
5430 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5431 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain  
5432 jurisdiction even though, thereafter, a child pleads guilty to, or is convicted of, a lesser  
5433 included offense. The plea to, or conviction of, a lesser included offense shall not re-vest  
5434 juvenile jurisdiction over such child.

5435 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the  
5436 district attorney of the judicial circuit in which the proceeding is taking place.

5437 (f) If the court decides not to transfer a child for trial in superior court, it shall set a date  
5438 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5439 15-11-567.

5440 (a) Except in those cases in which the superior court has exclusive original jurisdiction or  
5441 juvenile court jurisdiction has been terminated and the child has been transferred to  
5442 superior court, if it appears to any court in a criminal proceeding or a quasi-criminal  
5443 proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile  
5444 court together with a copy of the indictment, special presentment, accusation, or citation  
5445 and all other papers, documents, and transcripts of testimony relating to the case.

5446 (b) The transferring court shall order that a child be taken forthwith to the juvenile court  
5447 or to a place of detention designated by the court or shall release him or her to the custody  
5448 of his or her parent, guardian, legal custodian, or other person legally responsible for him  
5449 or her to be brought before the juvenile court at a time designated by that court. The  
5450 indictment, special presentment, accusation, or citation may not serve in lieu of a petition  
5451 alleging delinquency in the juvenile court except as provided in Part 14 of this article.

Part 10

5452

5453 15-11-580.

5454 (a) At the commencement of the adjudication hearing, the court shall address the alleged  
 5455 delinquent child, in language understandable to the child, and determine whether such child  
 5456 is capable of understanding statements about his or her rights under this article.

5457 (b) If a child is capable, the court shall inquire how he or she responds to the allegations  
 5458 of the delinquency petition. The child may:

5459 (1) Deny the allegations of such petition, in which case the court shall proceed to hear  
 5460 evidence on such petition; or

5461 (2) Admit the allegations of such petition, in which case the court shall further inquire  
 5462 to determine whether there is a factual basis for adjudication. If so, the court may then  
 5463 adjudge such child to have committed a delinquent act.

5464 (c) If a child stands mute, refuses to answer, or answers evasively, the court shall enter a  
 5465 denial of the allegations.

5466 15-11-581.

5467 The state shall have the burden of proving the allegations of a delinquency petition beyond  
 5468 a reasonable doubt.

5469 15-11-582.

5470 (a) The court shall fix a time for the adjudication hearing. If an alleged delinquent child  
 5471 is in detention, the hearing shall be scheduled to be held no later than ten days after the  
 5472 filing of the delinquency petition. If a child is not in detention, the hearing shall be  
 5473 scheduled to be held no later than 60 days after the filing of such petition.

5474 (b) Adjudication hearings shall be conducted:

5475 (1) By the court without a jury;

5476 (2) In accordance with Article 5 and Part 1 of Article 6 of Chapter 7 and Chapter 8 of  
 5477 Title 17, unless otherwise provided in this article;

5478 (3) In accordance with the rules of evidence set forth in Title 24; and

5479 (4) In language understandable to the child subject to the delinquency petition and  
 5480 participants, to the fullest extent practicable.

5481 (c) The court shall determine if the allegations of the petition alleging delinquency are  
 5482 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5483 (d) After hearing all of the evidence, the court shall make and record its findings on  
 5484 whether the delinquent acts ascribed to a child were committed by such child. If the court  
 5485 finds that the allegations of delinquency have not been established, it shall dismiss the

5486 delinquency petition and order such child be released from any detention or legal custody  
 5487 imposed in connection with the proceedings.  
 5488 (e) The court shall make a finding that a child has committed a delinquent act based on a  
 5489 valid admission made in open court of the allegations of the delinquency petition or on the  
 5490 basis of proof beyond a reasonable doubt. If the court finds that a child has committed a  
 5491 delinquent act, the court may proceed immediately or at a postponed hearing to make  
 5492 disposition of the case.

5493 Part 11

5494 15-11-590.

5495 (a) After an adjudication that a child has committed a delinquent act, the court may direct  
 5496 that a written predisposition investigation report be prepared by the probation officer or  
 5497 other person designated by the court.

5498 (b) A predisposition investigation report shall contain such information about the  
 5499 characteristics, family, environment, and the circumstances affecting the child who is the  
 5500 subject of the report as the court determines may be helpful in its determination of the need  
 5501 for treatment or rehabilitation and a proper disposition of the case, including but not limited  
 5502 to:

5503 (1) A summary of the facts of the conduct of such child that led to the adjudication;

5504 (2) The sophistication and maturity of such child;

5505 (3) A summary of such child's home environment, family relationships, and background;

5506 (4) A summary of such child's prior contacts with the juvenile court and law enforcement  
 5507 agencies, including the disposition following each contact and the reasons therefor;

5508 (5) A summary of such child's educational status, including, but not limited to, his or her  
 5509 strengths, abilities, and special educational needs. The report shall identify appropriate  
 5510 educational and vocational goals for such child. Examples of appropriate goals include:

5511 (A) Attainment of a high school diploma or its equivalent;

5512 (B) Successful completion of literacy courses;

5513 (C) Successful completion of vocational courses;

5514 (D) Successful attendance and completion of such child's current grade if enrolled in  
 5515 school; or

5516 (E) Enrollment in an apprenticeship or a similar program;

5517 (6) A summary of the results and recommendations of any of such child's significant  
 5518 physical and mental examinations;

5519 (7) The seriousness of the offense to the community;

5520 (8) The nature of the offense; and

- 5521 (9) Whether the offense was against persons or against property.  
5522 (c) If the court has ordered a child's physical or mental examination to be conducted, the  
5523 report shall include a copy of the results of the examination.  
5524 (d) If the court has ordered a risk assessment for a child, that assessment shall be included  
5525 in the predisposition investigation report.  
5526 (e) All information shall be presented in a concise and factual manner. The report shall  
5527 indicate the sources of information in the report.  
5528 (f) The original report and any other material to be disclosed shall be furnished to the  
5529 court, and copies shall be furnished to the attorney for the child who is the subject of such  
5530 report and to the prosecuting attorney at least five days prior to the disposition hearing.

5531 Part 12

- 5532 15-11-600.  
5533 (a) After a finding that a child has committed a delinquent act, the court shall hear  
5534 evidence on whether such child is in need of treatment, rehabilitation, or supervision and  
5535 shall make and file its findings.  
5536 (b) The court may proceed immediately to the disposition hearing after the adjudication  
5537 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The  
5538 disposition hearing may occur later than 30 days after the adjudication hearing only if the  
5539 court makes and files written findings of fact explaining the need for delay.  
5540 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that  
5541 felony acts have been committed shall also be sufficient to sustain a finding that the child  
5542 is in need of treatment or rehabilitation.  
5543 (d) If the court finds that a child who committed a delinquent act is not in need of  
5544 treatment, rehabilitation, or supervision, it shall dismiss the proceeding and discharge such  
5545 child from any detention or other restriction previously ordered.  
5546 (e) If the court finds that a child who committed a delinquent act is in need of supervision  
5547 but not of treatment or rehabilitation, it shall find that such child is a child in need of  
5548 services and enter any disposition authorized by Code Section 15-11-442.  
5549 (f) The court may consider any evidence, including hearsay evidence, that the court finds  
5550 to be relevant, reliable, and necessary to determine the needs of a child who committed a  
5551 delinquent act and the most appropriate disposition.  
5552 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys  
5553 shall be afforded an opportunity to examine any written reports received by the court.

5554 (2) Portions of written reports not relied on by the court in reaching its decision which  
 5555 if revealed would be prejudicial to the interests of any party to the proceeding, or reveal  
 5556 confidential sources, may be withheld in the court's discretion.

5557 (3) Parties and their attorneys shall be given the opportunity to controvert written reports  
 5558 received by the court and to cross-examine individuals making such reports.

5559 (h) In scheduling investigations and hearings, the court shall give priority to proceedings  
 5560 in which a child is in detention or has otherwise been removed from his or her home.

5561 15-11-601.

5562 (a) At the conclusion of the disposition hearing, if a child who committed a delinquent act  
 5563 is determined to be in need of treatment or rehabilitation, then after considering the results  
 5564 of such child's risk assessment if the court is contemplating placing such child in restrictive  
 5565 custody, the court shall enter the least restrictive disposition order appropriate in view of  
 5566 the seriousness of the delinquent act, such child's culpability as indicated by the  
 5567 circumstances of the particular case, the age of such child, such child's prior record, and  
 5568 such child's strengths and needs. The court may make any of the following orders of  
 5569 disposition, or combination of them, best suited to such child's treatment, rehabilitation,  
 5570 and welfare:

5571 (1) Any order authorized for the disposition of a dependent child other than placement  
 5572 in the temporary custody of DFCS unless such child is also adjudicated as a dependent  
 5573 child;

5574 (2) An order requiring such child and his or her parent, guardian, or legal custodian to  
 5575 participate in counseling or in counsel and advice. Such counseling and counsel and  
 5576 advice may be provided by the court, court personnel, probation officers, professional  
 5577 counselors or social workers, psychologists, physicians, physician assistants, qualified  
 5578 volunteers, or appropriate public, private, or volunteer agencies and shall be designed to  
 5579 assist in deterring future delinquent acts or other conduct or conditions which would be  
 5580 harmful to such child or society;

5581 (3) An order placing such child on probation under conditions and limitations the court  
 5582 prescribes and which may include the probation management program. The court may  
 5583 place such child on probation under the supervision of:

5584 (A) A probation officer of the court or the court of another state;

5585 (B) Any public agency authorized by law to receive and provide care for such child;  
 5586 or

5587 (C) Any community rehabilitation center if its chief executive officer has  
 5588 acknowledged in writing its willingness to accept the responsibility for the supervision  
 5589 of such child;

- 5590 (4) An order placing a child on unsupervised probation under conditions and limitations  
 5591 the court prescribes;
- 5592 (5) In any case in which such child who has not achieved a high school diploma or the  
 5593 equivalent is placed on probation, the court shall consider and may order as a condition  
 5594 of probation that he or she pursue a course of study designed to lead to achieving a high  
 5595 school diploma or the equivalent;
- 5596 (6) An order requiring that such child perform community service in a manner prescribed  
 5597 by the court and under the supervision of an individual designated by the court;
- 5598 (7) An order requiring that such child make restitution. In ordering a child to make  
 5599 restitution, the court shall follow the procedure set forth in Article 1 of Chapter 14 of  
 5600 Title 17. Such order may remain in force and effect simultaneously with another order  
 5601 of the court, including but not limited to an order of commitment to DJJ. However, no  
 5602 order of restitution shall be enforced while such child is at a secure residential facility or  
 5603 nonsecure residential facility unless the commissioner of juvenile justice certifies that a  
 5604 restitution program is available at such facility. Payment of funds shall be made by such  
 5605 child or his or her family or employer directly to the clerk of the juvenile court entering  
 5606 the order or to another employee of such court designated by the judge, and that court  
 5607 shall disburse such funds in the manner authorized in the order. While an order requiring  
 5608 restitution is in effect, the court may transfer enforcement of its order to:
- 5609 (A) DJJ;
- 5610 (B) The juvenile court of the county of such child's residence and its probation staff,  
 5611 if he or she changes his or her place of residence; or
- 5612 (C) The superior court once such child reaches 18 years of age as set forth in Code  
 5613 Section 17-14-5 if he or she thereafter comes under the jurisdiction of such court, and  
 5614 the court shall transfer enforcement of its order to superior court if the terms of such  
 5615 order are not completed when such child reaches 21 years of age;
- 5616 (8) An order requiring such child remit to the general fund of the county a sum not to  
 5617 exceed the maximum fine applicable to an adult for commission of any of the following  
 5618 offenses:
- 5619 (A) Any felony in the commission of which a motor vehicle is used;
- 5620 (B) Driving under the influence of alcohol or drugs;
- 5621 (C) Driving without proof of minimum required motor vehicle insurance;
- 5622 (D) Fraudulent or fictitious use of a driver's license;
- 5623 (E) Hit and run or leaving the scene of an accident;
- 5624 (F) Homicide by vehicle;
- 5625 (G) Manslaughter resulting from the operation of a motor vehicle;
- 5626 (H) Possession of controlled substances or marijuana;

5627 (I) Racing on highways or streets;  
5628 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or  
5629 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated  
5630 as a delinquent act;

5631 (9) An order suspending such child's driver's license for a period not to exceed the date  
5632 on which he or she reaches 18 years of age or, in the case of a child who does not have  
5633 a driver's license, an order prohibiting the issuance of a driver's license to such child for  
5634 a period not to exceed the date on which he or she reaches 18 years of age. The court  
5635 shall retain the driver's license during such period of suspension and return it to such  
5636 child at the end of such period. The court shall notify the Department of Driver Services  
5637 of any actions taken pursuant to this paragraph;

5638 (10) An order placing such child in an institution, camp, or other facility for delinquent  
5639 children operated under the direction of the court or other local public authority only if  
5640 such child was adjudicated for a delinquent act involving:

5641 (A) An offense that would be a felony if committed by an adult; or  
5642 (B) An offense that would be a misdemeanor if committed by an adult and such child  
5643 has had at least one prior adjudication for an offense that would be a felony if  
5644 committed by an adult and at least three other prior adjudications for a delinquent act  
5645 as defined in subparagraph (A) of paragraph (19) of Code Section 15-11-2; or

5646 (11) With the same exceptions as set forth in subparagraphs (A) and (B) of  
5647 paragraph (10) of this subsection, an order committing such child to DJJ.

5648 (b)(1) This subsection shall apply to cases involving:

5649 (A) An offense that would be a felony if committed by an adult; or  
5650 (B) An offense that would be a misdemeanor if committed by an adult and such child  
5651 has had at least one prior adjudication for an offense that would be a felony if  
5652 committed by an adult and at least three other prior adjudications for a delinquent act  
5653 as defined in subparagraph (A) of paragraph (19) of Code Section 15-11-2.

5654 (2) In addition to any other treatment or rehabilitation, the court may order such child to  
5655 serve up to a maximum of 30 days in a secure residential facility or, after a risk  
5656 assessment and with the court's approval, in a treatment program provided by DJJ or the  
5657 juvenile court.

5658 (c) Any child ordered to a secure residential facility under subsection (b) of this Code  
5659 section and detained after the adjudication hearing in a secure residential facility or  
5660 nonsecure residential facility pending placement in a secure residential facility shall be  
5661 given credit for time served in a secure residential facility or nonsecure residential facility  
5662 awaiting placement.

5663 (d) A child shall be given adequate information concerning the obligations and conditions  
5664 imposed upon him or her by the disposition ordered by the court and the consequences of  
5665 failure to meet such obligations and conditions. Such information shall be given in terms  
5666 understandable to a child to enable such child to conform his or her conduct to the  
5667 requirements of the disposition.

5668 15-11-602.

5669 (a) When a child is adjudicated to have committed a class A designated felony act or  
5670 class B designated felony act, the order of disposition shall be made within 20 days of the  
5671 conclusion of the disposition hearing. The court may make one of the following orders of  
5672 disposition best suited to provide for the rehabilitation of such child and the protection of  
5673 the community:

5674 (1) Any order authorized by Code Section 15-11-601, if the court finds that placement  
5675 in restrictive custody is not required; or

5676 (2) An order placing such child in restrictive custody.

5677 (b) Every order shall include a finding, based on a preponderance of the evidence, of  
5678 whether such child requires placement in restrictive custody. If placement in restrictive  
5679 custody is ordered for a child classified as low risk, the court shall make a specific written  
5680 finding as to why placement in restrictive custody is necessary. In determining whether  
5681 placement in restrictive custody is required, the court shall consider and make specific  
5682 written findings of fact as to each of the following factors:

5683 (1) The age and maturity of such child;

5684 (2) The needs and best interests of such child;

5685 (3) The record, background, and risk level of such child as calculated by a risk  
5686 assessment, including, but not limited to, information disclosed in the probation  
5687 investigation, diagnostic assessment, school records, and dependency records;

5688 (4) The nature and circumstances of the offense, including whether any injury involved  
5689 was inflicted by such child or another participant, the culpability of such child or another  
5690 participant in planning and carrying out the offense, and the existence of any aggravating  
5691 or mitigating factors;

5692 (5) The need for protection of the community;

5693 (6) The age and physical condition of the victim;

5694 (7) If the act was trafficking of substances in violation of Code Section 16-13-31 or  
5695 16-13-31.1, whether the circumstances involved sale, delivery, or manufacture of the  
5696 substances, and if such circumstances were not involved, the court shall dispose of the  
5697 act as a class B designated felony act; and

5698 (8) If the act was aggravated child molestation and subject to the provisions of  
5699 paragraph (2) of subsection (d) of Code Section 16-6-4, the court shall adjudicate the act  
5700 as a delinquent act and impose a disposition in accordance with Code Section 15-11-601.

5701 (c) An order for a child adjudicated for a class A designated felony act placing such child  
5702 in restrictive custody shall provide that:

5703 (1) Such child be placed in DJJ custody for an initial period of up to 60 months;

5704 (2) Such child be confined for a period set by the order in a secure residential facility,  
5705 except as provided in subsection (e) of this Code section. All time spent in a secure  
5706 residential facility or nonsecure residential facility shall be counted toward the period set  
5707 by the order;

5708 (3) After a period of confinement set by the court, such child shall be placed under  
5709 intensive supervision not to exceed 12 months;

5710 (4) Such child shall not be released from intensive supervision unless by court order; and

5711 (5) All home visits shall be carefully arranged and monitored by DJJ personnel while  
5712 such child is placed in a secure residential facility or nonsecure residential facility.

5713 (d) An order for a child adjudicated for a class B designated felony act placing such child  
5714 in restrictive custody shall provide that:

5715 (1) Such child be placed in DJJ custody for an initial period of up to 36 months;  
5716 provided, however, that not more than 18 months of such custodial period shall be spent  
5717 in restrictive custody;

5718 (2) Except as provided in subsection (e) of this Code section, if such child is classified  
5719 as moderate risk or high risk, he or she shall be confined for a period set by the order in  
5720 a secure residential facility for half of the period of restrictive custody and the other half  
5721 of the period of restrictive custody may, at the discretion of DJJ, be spent in a nonsecure  
5722 residential facility. All time spent in a secure residential facility or nonsecure residential  
5723 facility shall be counted toward the confinement period set by the order;

5724 (3) Except as provided in subsection (e) of this Code section, if such child is classified  
5725 as low risk, he or she be confined for a period set by the order in a nonsecure residential  
5726 facility. All time spent in a secure residential facility or nonsecure residential facility  
5727 subsequent to the date of the disposition hearing and prior to placement in a nonsecure  
5728 residential facility shall be counted toward the confinement period set by the order;

5729 (4) Such child be placed under intensive supervision not to exceed six months either after  
5730 a period of confinement set by the court or as an initial period of supervision;

5731 (5) Such child shall not be released from intensive supervision unless by court order; and

5732 (6) All home visits shall be carefully arranged and monitored by DJJ personnel while a  
5733 child is placed in a secure residential facility or nonsecure residential facility.

5734 (e)(1) Any child who is ordered to be confined in restrictive custody who is diagnosed  
5735 with a developmental disability and is not amenable to treatment in a secure residential  
5736 facility may be transferred by DJJ to a nonsecure residential facility determined to be  
5737 appropriate for such child by DJJ, provided that the court and prosecuting attorney are  
5738 notified of such change of placement.

5739 (2) Notwithstanding subsection (b) of this Code section, the court shall order placement  
5740 in restrictive custody in any case where the child is found to have committed a class A  
5741 designated felony act or class B designated felony act in which such child inflicted  
5742 serious physical injury upon another person who is 72 years of age or older.

5743 (f) During a child's placement order or any extension of the placement in restrictive  
5744 custody:

5745 (1) While in a secure residential facility or nonsecure residential facility, such child shall  
5746 be permitted to participate in all services and programs and shall be eligible to receive  
5747 special medical and treatment services, regardless of the time of confinement in such  
5748 facility. A child adjudicated to have committed a class A designated felony act or class  
5749 B designated felony act may be eligible to participate in programs sponsored by such  
5750 facility, including community work programs and sheltered workshops under the general  
5751 supervision of DJJ staff outside of such facility. In cooperation and coordination with the  
5752 DJJ, such child shall be allowed to participate in state sponsored programs for evaluation  
5753 and services under the Georgia Vocational Rehabilitation Agency and the Department of  
5754 Behavioral Health and Developmental Disabilities;

5755 (2)(A) A child adjudicated to have committed a class A designated felony act or  
5756 class B designated felony act shall not be discharged from placement in a secure  
5757 residential facility or nonsecure residential facility prior to the period of time provided  
5758 in the court's order except as provided in paragraph (1) of subsection (e) of this Code  
5759 section or when a motion to be discharged from placement in a secure residential  
5760 facility or nonsecure residential facility is granted by the court. After a court order  
5761 denying a motion to discharge a child from placement in a secure residential facility or  
5762 nonsecure residential facility, a subsequent such motion shall not be filed until at least  
5763 six months have elapsed. Notwithstanding Code Section 15-11-32, DJJ or any party  
5764 may file a motion with the court seeking a child's release from placement in a secure  
5765 residential facility or nonsecure residential facility, an order modifying the court's order  
5766 requiring placement in a secure residential facility or nonsecure residential facility, or  
5767 termination of an order of disposition for a child committed for a class A designated  
5768 felony act or class B designated felony act.

5769 (B) All motions filed under this paragraph shall be accompanied by a written  
5770 recommendation for release, modification, or termination from a child's DJJ counselor

5771 or placement supervisor, filed in the court that committed such child to DJJ, and served  
 5772 on the prosecuting attorney for such jurisdiction.

5773 (C) At least 14 days prior to the date of the hearing on the motion, the moving party  
 5774 shall serve a copy of the motion, by first-class mail, upon the victim of the class A  
 5775 designated felony act or class B designated felony act, if any, at the victim's last known  
 5776 address, the child's attorney, if any, the child's parents or guardian, and the law  
 5777 enforcement agency that investigated the class A designated felony act or class B  
 5778 designated felony act. In addition to the parties to the motion, the prosecuting attorney  
 5779 and the victim, if any, shall have a right to be heard and to present evidence to the court  
 5780 relative to any motion filed pursuant to this paragraph.

5781 (D) A court hearing a motion filed under this paragraph shall determine the disposition  
 5782 of a child based upon a preponderance of the evidence. In determining whether a  
 5783 motion for release from custody, modification of placement in a secure residential  
 5784 facility or nonsecure residential facility, or termination of an order of disposition should  
 5785 be granted or denied due to changed circumstances, the court shall be required to find  
 5786 whether or not such child has been rehabilitated and shall consider and make specific  
 5787 findings of fact as to each of the following factors:

- 5788 (i) The needs and best interests of such child;  
 5789 (ii) The record and background of such child, including the disciplinary history of  
 5790 such child during the period of placement in a secure residential facility or nonsecure  
 5791 residential facility and subsequent offense history;  
 5792 (iii) The academic progress of such child during the period of placement in a secure  
 5793 residential facility or nonsecure residential facility, including, if he or she is receiving  
 5794 services under the federal Individuals with Disabilities Education Act or Section 504  
 5795 of the federal Rehabilitation Act of 1973, a review of his or her Individualized  
 5796 Education Program (IEP) and such child's progress toward IEP goals;  
 5797 (iv) The victim's impact statement submitted for purposes of a hearing conducted  
 5798 pursuant to this paragraph;  
 5799 (v) The safety risk to the community if such child is released; and  
 5800 (vi) Such child's acknowledgment to the court and victim, if any, of his or her  
 5801 conduct being the cause of harm to others; and

5802 (3) Unless otherwise specified in the order, DJJ shall report in writing to the court not  
 5803 less than once every six months during the placement on the status, adjustment, and  
 5804 progress of such child.

5805 (g) Notwithstanding the initial periods of placement in restrictive custody ordered by the  
 5806 court pursuant to subsection (c) or (d) of this Code section, the period of placement may  
 5807 be extended on motion by DJJ, after a disposition hearing, for two additional periods not

5808 to exceed 12 months each, provided that no placement or extension of custody may  
5809 continue beyond a child's twenty-first birthday.

5810 (h) The court shall identify the school last attended by a child adjudicated for a class A  
5811 designated felony act or class B designated felony act and the school which such child  
5812 intends to attend and shall transmit a copy of the adjudication to the principals of both  
5813 schools within 15 days of the adjudication. Such information shall be subject to  
5814 notification, distribution, and other requirements as provided in Code Section 20-2-671.

5815 15-11-603.

5816 (a) As part of any order of disposition regarding a child adjudged to have committed a  
5817 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and  
5818 after conferring with the director of the health district, order that such child submit to an  
5819 HIV test within 45 days following the adjudication of delinquency. The court shall mail  
5820 DJJ a copy of the order within three days following its issuance.

5821 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the  
5822 HIV test for such child.

5823 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance  
5824 with DJJ's policies and procedures.

5825 (d) If a child is determined to be infected with HIV, that determination and the name of  
5826 the child shall be deemed to be AIDS confidential information and shall only be reported  
5827 to:

5828 (1) DJJ or the Department of Corrections, as the case may be, and the Department of  
5829 Public Health, which may disclose the name of such child if necessary to provide  
5830 counseling and which shall provide counseling to each victim of the AIDS transmitting  
5831 crime or to any parent, guardian, or legal custodian of any victim who is a minor or  
5832 incompetent person if DJJ or the Department of Corrections believes the crime posed a  
5833 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the  
5834 person with information and explanations medically appropriate for such person which  
5835 may include all or part of the following: accurate information regarding AIDS and HIV;  
5836 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an  
5837 explanation of the confidentiality of information relating to AIDS diagnoses and HIV  
5838 tests; an explanation of information regarding both social and medical implications of  
5839 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and  
5840 HIV;

5841 (2) The court which ordered the HIV test; and

5842 (3) Those persons in charge of any facility to which such child has been confined by  
5843 order of the court. In addition to any other restrictions regarding the confinement of a

5844 child, a child determined to be an HIV infected person may be confined separately from  
 5845 any other children in that facility other than those who have been determined to be  
 5846 infected with HIV if:

5847 (A) That child is reasonably believed to be sexually active while confined;

5848 (B) That child is reasonably believed to be sexually predatory either during or prior to  
 5849 detention; or

5850 (C) The commissioner of juvenile justice reasonably determines that other  
 5851 circumstances or conditions exist which indicate that separate confinement would be  
 5852 warranted.

5853 15-11-604.

5854 (a) A child adjudicated to have committed a delinquent act shall be given credit for each  
 5855 day spent in a secure residential facility or nonsecure residential facility awaiting  
 5856 adjudication and for each day spent in a secure residential facility or nonsecure residential  
 5857 facility in connection with and resulting from a court order entered in the proceedings for  
 5858 which the disposition was imposed and in any institution or facility for treatment or  
 5859 examination of a physical or mental disability. Such credit shall be applied toward the  
 5860 child's disposition.

5861 (b) Subsection (a) of this Code section shall apply to dispositions for all offenses, whether  
 5862 classified as violations, misdemeanors, or felonies.

5863 15-11-605.

5864 (a) In addition to any other terms or conditions of probation provided for under this article,  
 5865 the court may require that children who receive a disposition of probation:

5866 (1) Be ordered to a probation management program; or

5867 (2) Be ordered to a secure probation sanctions program by a probation officer or hearing  
 5868 officer.

5869 (b) When a child has been ordered to a probation management program or secure  
 5870 probation sanctions program, the court shall retain jurisdiction throughout the period of the  
 5871 probated sentence and may modify or revoke any part of a probated sentence as provided  
 5872 in Code Section 15-11-32.

5873 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision or  
 5874 the county juvenile probation office in jurisdictions where probation supervision is  
 5875 provided directly by the county, as applicable, shall be authorized to establish rules and  
 5876 regulations for graduated sanctions as an alternative to judicial modifications or  
 5877 revocations for probationers who violate the terms and conditions of a probation  
 5878 management program.

5879 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction  
 5880 probationers for violations of conditions of probation if the court has expressed an  
 5881 intention in a written order that such violations be heard by the court.

5882 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those  
 5883 restrictions equal to or less restrictive than the maximum sanction established by the court.

5884 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a  
 5885 child from a secure probation sanctions program otherwise authorized by this Code section  
 5886 to enter such program shall be mutually agreed upon by the Council of Juvenile Court  
 5887 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile  
 5888 courts to the extent that each secure facility has capacity for such offenders within its  
 5889 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of  
 5890 its capacity constraints.

5891 (f)(1) When requesting the secure probation sanctions program, probation officers  
 5892 supervising a child under a probation management program shall provide an affidavit to  
 5893 the court specifying:

5894 (A) The elements of such child's probation program;

5895 (B) Such child's failures to respond to graduated sanctions in the community; and

5896 (C) Such child's number of violations and the nature of each violation.

5897 (2) If a probation officer fails to document the violations and specify how a child has  
 5898 failed to complete a probation management program, such child shall be ineligible to  
 5899 enter the secure probation sanctions program.

5900 (3) A child may enter the secure probation sanctions program if ordered by the court and:

5901 (A) The probation officer has complied with the provisions of paragraph (1) of this  
 5902 subsection and the criteria set by the department for entrance into such program and  
 5903 such child has had three or more violations of probation; or

5904 (B) A child in a probation management program and his or her parent or guardian, or  
 5905 a child in such program and his or her attorney, admit to three or more violations of  
 5906 such program and sign a waiver accepting the sanction proposed by the probation  
 5907 officer.

5908 (4) Each new violation of a condition of a probated sentence may result in a child being  
 5909 sentenced to the secure probation sanctions program; provided, however, that if a child  
 5910 is sentenced to the secure probation sanctions program and completes all program  
 5911 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend  
 5912 the secure probation sanctions program for a future violation of a condition of the same  
 5913 probated sentence.

5914 (g)(1) When a violation of a condition of probation occurs, a child may have an  
 5915 administrative hearing conducted by a hearing officer. If the hearing officer determines

5916 by a preponderance of the evidence that such child violated the conditions of probation,  
 5917 the probation officer shall be authorized to impose graduated sanctions. A child's failure  
 5918 to comply with a sanction imposed under this paragraph shall constitute another violation  
 5919 of probation.

5920 (2) A hearing officer's decision shall be final unless such child files, within five days of  
 5921 the service of such decision, a written demand with the hearing officer who conducted  
 5922 the administrative hearing for review of such decision. Such demand shall not stay the  
 5923 sanction decision. Such hearing officer shall issue a response to such demand within five  
 5924 days of receiving such demand.

5925 (3) If such hearing officer insists on the sanction, his or her decision shall be final unless  
 5926 the child subject to the sanction files an appeal in the court that originally adjudicated  
 5927 such child. Such appeal shall be filed within ten days of the date of the decision of the  
 5928 hearing officer.

5929 (4) The appeal shall first be reviewed by the court upon the record. At the court's  
 5930 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall  
 5931 not stay the sanction decision.

5932 (5) Where the court does not act on the appeal within 15 days of the date of the filing of  
 5933 the appeal, the sanction decision shall be affirmed by operation of law.

5934 15-11-606.

5935 An order of disposition or adjudication shall not be a conviction of a crime and shall not  
 5936 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify  
 5937 the child in any civil service application or appointment.

5938 15-11-607.

5939 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition  
 5940 committing a child adjudicated for a delinquent act to DJJ shall continue in force for two  
 5941 years or until such child is sooner discharged by DJJ. The court which made the order may  
 5942 extend its duration for a period not to exceed two years subject to like discharge, if:

5943 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

5944 (2) Reasonable notice of the factual basis of the motion and of the hearing and an  
 5945 opportunity to be heard are given to such child and his or her parent, guardian, or legal  
 5946 custodian; and

5947 (3) The court finds that the extension is necessary for the treatment or rehabilitation of  
 5948 such child.

5949 (b) Any other order of disposition except an order of restitution as allowed by  
 5950 paragraph (7) or (8) of subsection (a) of Code Section 15-11-601 shall continue in force for  
 5951 not more than two years. An order of extension may be made if:

5952 (1) A hearing is held prior to the expiration of the order on the court's own motion or  
 5953 upon motion of DJJ or the prosecuting attorney;

5954 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
 5955 opportunity to be heard are given to the parties affected;

5956 (3) The court finds that the extension is necessary to accomplish the purposes of the  
 5957 order extended; and

5958 (4) The extension does not exceed two years from the expiration of the prior order.

5959 (c) The court may terminate an order of disposition or an extension of such a disposition  
 5960 order prior to its expiration, on its own motion or an application of a party, if it appears to  
 5961 the court that the purposes of the order have been accomplished.

5962 (d) Except as otherwise provided in paragraph (7) of subsection (a) of Code Section  
 5963 15-11-601 and Code Section 17-14-5, when a child reaches 21 years of age, all orders  
 5964 affecting him or her then in force terminate and he or she is discharged from further  
 5965 obligation or control.

5966 15-11-608.

5967 (a) An order granting probation to a child adjudicated for a delinquent act may be revoked  
 5968 on the ground that the conditions of probation have been violated.

5969 (b) Any violation of a condition of probation may be reported to the prosecuting attorney  
 5970 who may file a motion in the court for revocation of probation. A motion for revocation  
 5971 of probation shall contain specific factual allegations constituting each violation of a  
 5972 condition of probation.

5973 (c) The motion for revocation of probation shall be served upon the child serving the  
 5974 probated sentence, his or her attorney, and his or her parent, guardian, or legal custodian  
 5975 in accordance with the provisions of Code Section 15-11-531.

5976 (d) If a child serving a probated sentence is taken into custody because of an alleged  
 5977 violation of probation, the provisions governing the detention of a child shall apply.

5978 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
 5979 of such motion or, if a child has been detained as a result of the filing of such motion for  
 5980 revocation, not later than ten days after the filing of the motion.

5981 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and  
 5982 conditions of probation, the court may:

5983 (1) Extend probation;

5984 (2) Impose additional conditions of probation; or

5985 (3) Make any disposition that could have been made at the time probation was imposed.  
 5986 (g) In the case of a class A designated felony act or class B designated felony act, if the  
 5987 court finds that a child violated the terms and conditions of probation, the court shall  
 5988 reconsider and make specific findings of fact as to each of the factors in subsection (b) of  
 5989 Code Section 15-11-602 to determine whether placement in restrictive custody.  
 5990 (h) In the case of a class A designated felony act or class B designated felony act, if the  
 5991 court finds, beyond a reasonable doubt, that a child violated the terms and conditions of  
 5992 probation and revokes the order granting probation, the child shall be given credit for time  
 5993 served on probation and time served in preadjudication custody.

5994 Part 13

5995 15-11-620.

5996 (a) When a child is alleged to have committed a delinquent act and be a dependent child,  
 5997 the date such child is considered to have entered foster care shall be the date of the first  
 5998 judicial finding that such child has been subjected to child abuse or neglect or the date that  
 5999 is 60 days after the date on which such child is removed from his or her home, whichever  
 6000 is earlier.

6001 (b) If a child alleged or adjudicated to have committed a delinquent act is detained in a  
 6002 facility operated primarily for the detention of delinquent children but is later placed in  
 6003 foster care within 60 days of such child's removal from the home, then the date of entry  
 6004 into foster care shall be 60 days after the date of removal.

6005 (c) If a child is detained in a facility operated primarily for the detention of delinquent  
 6006 children pending placement in foster care and remains detained for more than 60 days, then  
 6007 the date of entry into foster care shall be the date such child is placed in foster care.

6008 15-11-621.

6009 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and  
 6010 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to have  
 6011 committed a delinquent act and placed in foster care.

6012 15-11-622.

6013 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and  
 6014 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to have  
 6015 committed a delinquent act and placed in foster care.

6016 (b) In addition to the compelling reasons set forth in Code Section 15-11-233, a  
 6017 compelling reason for determining that filing a termination of parental rights petition is not

6018 in the best interests of a child alleged or adjudicated to have committed a delinquent act  
 6019 may include, but not be limited to:  
 6020 (1) A child's developmental needs require continued out-of-home placement for an  
 6021 additional number of months, and his or her parent, guardian, or legal custodian has  
 6022 cooperated with referrals, visitation, and family conferences, as well as therapy;  
 6023 (2) A child is uncooperative with services or referrals; and  
 6024 (3) The length of the delinquency disposition affects the permanency plan.

6025 Part 14

6026 15-11-630.

6027 (a) A juvenile traffic offense consists of a violation by a child of:

6028 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the  
 6029 streets or highways of this state or upon the waterways within or adjoining this state; or  
 6030 (2) Any other motor vehicle traffic law or local ordinance if a child is taken into custody  
 6031 and detained for its violation or is transferred to the juvenile court by the court hearing  
 6032 the charge.

6033 (b) The following offenses shall be acts of delinquency and shall not be handled as  
 6034 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,  
 6035 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in  
 6036 the commission of which a motor vehicle is used, racing on highways and streets, using a  
 6037 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a  
 6038 driver's license, hit and run or leaving the scene of an accident, driving under the influence  
 6039 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of  
 6040 age.

6041 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is  
 6042 transferred to the delinquency calendar.

6043 (d) The summons, notice to appear, or other designation of a citation accusing a child of  
 6044 committing a juvenile traffic offense constitutes the commencement of the proceedings in  
 6045 the court of the county in which the alleged violation occurred and serves in place of a  
 6046 summons and petition under this article. These cases shall be filed and heard separately  
 6047 from other proceedings of the court. If a child is taken into custody on the charge, Code  
 6048 Sections 15-11-503 and 15-11-505 shall apply. If a child is, or after commencement of the  
 6049 proceedings becomes, a resident of another county of this state, the court in the county  
 6050 where the alleged traffic offense occurred may retain jurisdiction over the entire case.

6051 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the  
 6052 child accused of committing a juvenile traffic offense and, if his or her address is known,

6053 to his or her parent, guardian, or legal custodian. If the accusation made in the summons,  
6054 notice to appear, or other designation of a citation is denied, a hearing shall be held at  
6055 which the parties shall have the right to subpoena witnesses, present evidence,  
6056 cross-examine witnesses, and appear with their attorney. The hearing shall be open to the  
6057 public.

6058 (f) If the court finds on the admission of a child or upon the evidence that a child  
6059 committed the offense charged, it may make one or more of the following orders:

6060 (1) Reprimand, counsel, or warn such child and his or her parent, guardian, or legal  
6061 custodian; provided, however, that this disposition order shall not be available for any act  
6062 of delinquency;

6063 (2) As a matter of supervised or unsupervised probation, order the Department of Driver  
6064 Services to suspend such child's privilege to drive under stated conditions and limitations  
6065 for a period not to exceed 12 months;

6066 (3) Require such child to attend a traffic school approved by the Department of Driver  
6067 Services or a substance abuse clinic or program approved by either DBHDD or the  
6068 Council of Juvenile Court Judges for a reasonable period of time;

6069 (4) Assess a fine and order such child to remit to the general fund of the county a sum  
6070 not exceeding the maximum applicable to an adult for a like offense. The fine shall be  
6071 subject to all additions and penalties as specified under this title and Title 47;

6072 (5) Require such child to participate in a program of community service as specified by  
6073 the court;

6074 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

6075 (7) Place such child on probation subject to the conditions and limitations imposed by  
6076 Title 40 governing probation granted to adults for like offenses, provided that such  
6077 probation shall be supervised by the court or shall be unsupervised probation.

6078 (g) In lieu of the orders provided by subsection (f) of this Code section, if the evidence  
6079 warrants, the court may transfer the case to the delinquency calendar of the court and direct  
6080 the filing and service of a summons and delinquency petition.

6081 (h) Upon finding that a child has committed a juvenile traffic offense or an act of  
6082 delinquency which would be a violation of Title 40 if committed by an adult, the court shall  
6083 forward, within ten days, a report of the final adjudication and disposition of the charge to  
6084 the Department of Driver Services; provided, however, that this procedure shall not be  
6085 applicable to those cases which have been dismissed or in which a child and his or her  
6086 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the  
6087 court. The Department of Driver Services shall record the adjudication and disposition of  
6088 the offense on such child's permanent record, and such adjudication and disposition shall  
6089 be deemed a conviction for the purpose of suspending or revoking such child's driver's

6090 license. Such record shall also be available to law enforcement agencies and courts as are  
 6091 the permanent traffic records of adults.

6092 ARTICLE 7

6093 15-11-650.

6094 The purpose of this article is:

6095 (1) To set forth procedures for a determination of whether a child is incompetent to  
 6096 proceed; and

6097 (2) To provide a mechanism for the development and implementation of competency  
 6098 remediation services, when appropriate, including treatment, habilitation, support, or  
 6099 supervision services.

6100 15-11-651.

6101 As used in this article, the term:

6102 (1) 'Competency remediation services' means outpatient interventions directed only at  
 6103 facilitating the attainment of competence to proceed for a child adjudicated to be  
 6104 incompetent to proceed. Such term may include mental health treatment to reduce  
 6105 interfering symptoms, specialized psychoeducational programming, or a combination of  
 6106 these interventions.

6107 (2) 'Comprehensive services plan' shall have the same meaning as set forth in Code  
 6108 Section 15-11-381.

6109 (3) 'Incompetent to proceed' means lacking sufficient present ability to understand the  
 6110 nature and object of the proceedings, to comprehend his or her own situation in relation  
 6111 to the proceedings, and to assist his or her attorney in the preparation and presentation of  
 6112 his or her case in all adjudication, disposition, or transfer hearings. Such term shall  
 6113 include consideration of a child's age or immaturity.

6114 (4) 'Mental competency proceeding' means a hearing conducted to determine whether  
 6115 a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer  
 6116 proceeding.

6117 (5) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

6118 (6) 'Treatment facility' means a facility that receives patients for psychiatric treatment  
 6119 as provided in Code Sections 37-3-80 through 37-3-84 but shall not include a secure  
 6120 residential facility.

6121 15-11-652.

6122 (a) If at any time after the filing of a petition alleging delinquency or that a child is a child  
6123 in need of services the court has reason to believe that the child named in the petition may  
6124 be incompetent to proceed, the court on its own motion or on the motion of the attorney  
6125 representing such child, any guardian ad litem for such child, such child's parent, guardian,  
6126 or legal custodian, or the prosecuting attorney shall stay all proceedings relating to such  
6127 petition and, unless the court accepts a stipulation by the parties as to such child's  
6128 incompetency, shall order a competency evaluation of and report on such child's mental  
6129 condition.

6130 (b) When a delinquency petition is filed alleging a child under the age of 13 has committed  
6131 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all  
6132 delinquency proceedings relating to such petition and, unless the court accepts a stipulation  
6133 by the parties as to such child's incompetency, shall order a competency evaluation and  
6134 report concerning such child's mental condition.

6135 (c) Any motion, notice of hearing, order, or other pleading relating to a child's  
6136 incompetency to proceed shall be served upon him or her, his or her attorney, his or her  
6137 guardian ad litem, if any, his or her parent, guardian, or legal custodian, and the  
6138 prosecuting attorney.

6139 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to  
6140 represent a child if he or she is not yet represented by an attorney.

6141 (e) All time limits set forth in Articles 5 and 6 of this chapter for adjudication and  
6142 disposition of a delinquency or a child in need of services proceeding shall be tolled during  
6143 the evaluation, adjudication, and disposition phases of the mental competency proceeding  
6144 and during provision of competency remediation services.

6145 15-11-653.

6146 (a) The court ordered evaluation and report shall be conducted by an examiner who shall  
6147 consider whether a child is incompetent to proceed. The court shall provide the examiner  
6148 with any law enforcement or court records necessary for understanding the petition alleging  
6149 delinquency. The attorney for the child being examined and the prosecuting attorney shall  
6150 provide the examiner with any records from any other available sources that are deemed  
6151 necessary for the competency evaluation.

6152 (b) The competency evaluation shall be performed on an outpatient basis; provided,  
6153 however, that if a child is in an out-of-home placement, the evaluation shall be performed  
6154 at such child's location.

6155 (c) The examiner who conducts the evaluation shall submit a written report to the court  
6156 within 30 days of receipt of the court order for evaluation. The court may, in its discretion,

6157 grant the examiner an extension in filing such report. The report shall contain the  
6158 following:

6159 (1) The specific reason for the evaluation, as provided by the court or the party  
6160 requesting the evaluation;

6161 (2) The evaluation procedures used, including any psychometric instruments  
6162 administered, any records reviewed, and the identity of any persons interviewed;

6163 (3) Any available pertinent background information;

6164 (4) The results of a mental status exam, including the diagnosis if any and description  
6165 of any psychiatric symptoms, cognitive deficiency, or both;

6166 (5) A description of a child's abilities and deficits in the following mental competency  
6167 functions:

6168 (A) The ability to understand and appreciate the nature and object of the proceedings;

6169 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6170 (C) The ability to assist his or her attorney in the preparation and presentation of his  
6171 or her case;

6172 (6) An opinion regarding the potential significance of a child's mental competency,  
6173 strengths, and deficits;

6174 (7) An opinion regarding whether or not a child should be considered incompetent to  
6175 proceed; and

6176 (8) A specific statement explaining the reasoning supporting the examiner's final  
6177 determination.

6178 (d) If, in the opinion of the examiner, a child should be considered incompetent to proceed,  
6179 the report shall also include the following:

6180 (1) An opinion on whether the primary cause of incompetency to proceed is immaturity,  
6181 mental illness, developmental disability, or a combination of mental illness and  
6182 developmental disability;

6183 (2) An opinion on whether there is a substantial probability that the examined child will  
6184 attain the mental competency necessary to participate in adjudication, a disposition  
6185 hearing, or a transfer hearing in the foreseeable future;

6186 (3) If the examiner believes that the examined child will attain mental competency,  
6187 recommendations for the general level and type of competency remediation services  
6188 necessary for significant deficits;

6189 (4) A recommendation on the appropriate treatment or services;

6190 (5) When appropriate, recommendations for modifications of court procedure which may  
6191 help compensate for mental competency weaknesses; and

6192 (6) Any relevant medication history.

6193 (e) If the examiner determines that the examined child is currently competent because of  
6194 ongoing treatment with medication or other services, the report shall address the necessity  
6195 of continuing such treatment and shall include a description of any limitation such  
6196 treatment may have on competency.

6197 (f) Copies of the written evaluation report shall be provided by the court to the attorney  
6198 representing the examined child, the prosecuting attorney or a member of his or her staff,  
6199 and any guardian ad litem for the examined child no later than five days after receipt of the  
6200 report by the court.

6201 (g) Upon a showing of good cause by any party or upon the court's own motion, the court  
6202 may order additional evaluations by other licensed psychologists or psychiatrists. In no  
6203 event shall more than one evaluation be conducted by an examiner employed by DBHDD.

6204 15-11-654.

6205 (a) If at any time following a finding that a child is incompetent to proceed the court  
6206 determines that such child is a resident of a county of this state other than the county in  
6207 which the court sits, the court may transfer the proceeding to the county of such child's  
6208 residence.

6209 (b) When any case is transferred, certified copies of all legal, social history, health, or  
6210 mental health records pertaining to the case on file with the clerk of the court shall  
6211 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the  
6212 transferring court and initiate jurisdiction in the receiving court.

6213 (c) If a court determines that such child's competency is remediated, jurisdiction of the  
6214 case may be returned to the transferring court for the adjudication hearing and any  
6215 subsequent proceedings.

6216 15-11-655.

6217 (a) A hearing to determine if a child is incompetent to proceed shall be conducted within  
6218 60 days after the initial court order for evaluation. The hearing may be continued by the  
6219 court for good cause shown.

6220 (b) Written notice shall be given to all parties and the victim at least ten days prior to such  
6221 hearing.

6222 (c) The burden of proving that a child is incompetent to proceed shall be on such child.  
6223 The standard of proof necessary for proving mental competency shall be a preponderance  
6224 of the evidence.

6225 (d) At the hearing to determine incompetency to proceed, a child's attorney and the  
6226 prosecuting attorney shall have the right to:

6227 (1) Present evidence;

- 6228 (2) Call and examine witnesses;  
 6229 (3) Cross-examine witnesses; and  
 6230 (4) Present arguments.
- 6231 (e) The examiner appointed by the court shall be considered the court's witness and shall  
 6232 be subject to cross-examination by both a child's attorney and the prosecuting attorney.
- 6233 (f) The court's findings of fact shall be based on any evaluations of a child's mental  
 6234 condition conducted by licensed psychologists or psychiatrists appointed by the court, any  
 6235 evaluations of a child's mental condition conducted by independent licensed psychologists  
 6236 or psychiatrists hired by the parties, and any additional evidence presented.
- 6237 (g) If the court finds that a child is not incompetent to proceed, the proceedings which  
 6238 have been suspended shall be resumed. The time limits under Article 5 or 6 of this chapter  
 6239 for adjudication and disposition of the petition shall begin to run from the date of the order  
 6240 finding such child mentally competent.
- 6241 (h) Copies of the court's findings shall be given to the parties within ten days following the  
 6242 issuance of such findings.
- 6243 15-11-656.
- 6244 (a) If the court finds that a child is incompetent to proceed but such child's incompetence  
 6245 may be remediated, if such child is alleged:
- 6246 (1) To be a child in need of services, the court shall either dismiss the petition without  
 6247 prejudice or order competency remediation services for such child; or
- 6248 (2) To have committed a delinquent act, the court may order competency remediation  
 6249 services for such child.
- 6250 (b) In determining whether to order competency remediation services, the court shall  
 6251 consider:
- 6252 (1) Whether there is probable cause to believe the allegations in the petition are true;  
 6253 (2) The nature of the incompetency;  
 6254 (3) An incompetent child's age; and  
 6255 (4) The nature of the act alleged to have been committed by the incompetent child, in  
 6256 particular whether the act is a serious violent felony as such term is defined in Code  
 6257 Section 17-10-6.1.
- 6258 (c) If a child is determined to be incompetent to proceed, the court has ordered that  
 6259 competency remediation services should be provided, and:
- 6260 (1) Such child is alleged to have committed an act that would be a felony if committed  
 6261 by an adult, the court may retain jurisdiction of such child for up to two years after the  
 6262 date of the order of incompetency, with review hearings at least every six months to

- 6263 redetermine competency or proceed as provided in subsection (f) of this Code section;  
6264 or  
6265 (2) A child is alleged to have committed an act that would be a misdemeanor if  
6266 committed by an adult, the court may retain jurisdiction of a child for up to 120 days after  
6267 the date of the order of incompetency or proceed as provided in subsection (f) of this  
6268 Code section.
- 6269 (d) All court orders determining incompetency shall include specific written findings by  
6270 the court as to the nature of the incompetency and the mandated outpatient competency  
6271 remediation services. If such child is in an out-of-home placement, the court shall specify  
6272 the type of competency remediation services to be performed at such child's location. A  
6273 child may be placed in a secure treatment facility or program, not to include DJJ facilities,  
6274 if the court makes a finding by clear and convincing evidence that:
- 6275 (1) A child is mentally ill or developmentally disabled and meets the requirements for  
6276 civil commitment pursuant to Chapters 3 and 4 of Title 37; and
- 6277 (2) All available less restrictive alternatives, including treatment in community  
6278 residential facilities or community settings which would offer an opportunity for  
6279 improvement of a child's condition, are inappropriate.
- 6280 (e) A child who is incompetent to proceed shall not be subject to transfer to superior court,  
6281 adjudication, disposition, or modification of disposition so long as the mental  
6282 incompetency exists.
- 6283 (f) If the court determines that an alleged delinquent child is incompetent to proceed, the  
6284 court may dismiss the petition without prejudice.
- 6285 (g) If a child is detained in a secure residential facility or nonsecure residential facility and  
6286 the court determines that such child is incompetent to proceed, within five days of such  
6287 determination the court shall issue an order to immediately release such child to the  
6288 appropriate parent, guardian, or legal custodian.
- 6289 15-11-657.
- 6290 (a) All competency remediation service orders issued by the court shall contain:
- 6291 (1) The name of the competency remediation service program provider and the location  
6292 of the program;
- 6293 (2) A statement of the arrangements for a child's transportation to the program site;
- 6294 (3) The length of the competency remediation service program;
- 6295 (4) A statement of the arrangements for a child's transportation after the program ends;  
6296 and
- 6297 (5) A direction concerning the frequency of reports required by the court.

6298 (b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the  
 6299 court:

6300 (1) Not later than six months after the date the court orders that competency remediation  
 6301 be attempted but prior to the first review hearing;

6302 (2) Every six months after the first review hearing if a child remains incompetent to  
 6303 proceed and under an order for remediation;

6304 (3) At any time DBHDD or a licensed psychologist or psychiatrist opines a child has  
 6305 attained competency; or

6306 (4) At shorter intervals designated by the court in its competency remediation order.

6307 (c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but  
 6308 not be limited to:

6309 (1) Whether a child's competency can be remediated or whether a child is likely to  
 6310 remain incompetent to proceed for the foreseeable future;

6311 (2) Whether additional time is needed to remediate a child's competency; and

6312 (3) If a child has attained competency, the effect, if any, of any limitations that are  
 6313 imposed by any medication or other treatment used in the effort to remediate competency.

6314 15-11-658.

6315 (a) If the court initially finds that a child is unrestorably incompetent to proceed, the court  
 6316 shall dismiss the petition, appoint a plan manager, and order that procedures for a  
 6317 comprehensive services plan be initiated under Article 5 of this chapter. When appropriate,  
 6318 the court may:

6319 (1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of  
 6320 Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal  
 6321 of the delinquency or a child in need of services petition; or

6322 (2) Order that referral be made for appropriate adult services if a child has reached the  
 6323 age of 18 years at the time of the competency determination.

6324 (b) If at any time after a child is ordered to undergo competency remediation services  
 6325 DBHDD or a licensed psychologist or psychiatrist opines that a child is likely to remain  
 6326 incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist  
 6327 or psychiatrist shall submit a report to the court so stating.

6328 (c) Upon receipt of the report specified in subsection (b) of this Code section, the court  
 6329 shall make a competency determination and shall dismiss the delinquency petition, appoint  
 6330 a plan manager, and order that procedures for a comprehensive services plan be initiated  
 6331 under Article 5 of this chapter. When appropriate, the court may:

6332 (1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of  
 6333 Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal  
 6334 of the delinquency or child in need of services petition; or

6335 (2) Order that referral be made for appropriate adult services if a child has reached the  
 6336 age of 18 years at the time of the competency determination.

6337 15-11-659.

6338 If at any time after a child is adjudicated to be incompetent to proceed due to age,  
 6339 immaturity, or for any reason other than mental illness or developmental disability and is  
 6340 ordered to undergo competency remediation services and DBHDD determines that such  
 6341 child is likely to remain incompetent to proceed for the foreseeable future, DBHDD shall  
 6342 submit a report and its conclusions to the court. Upon receipt of such report, the court  
 6343 shall:

6344 (1) Make a competency determination;

6345 (2) Order that the applicable petition be dismissed; and

6346 (3) Order that a plan manager be appointed and that the procedures for a comprehensive  
 6347 services plan be initiated under Article 5 of this chapter.

6348 15-11-660.

6349 (a) The court shall hold a hearing to review a child's progress toward competency:

6350 (1) At least every six months;

6351 (2) At any time, on its own motion or on the motion of the prosecuting attorney, a child's  
 6352 attorney, or a child's guardian ad litem, if any;

6353 (3) On receipt of a report submitted by DBHDD; or

6354 (4) Not less than three months before a child's eighteenth birthday.

6355 (b) If at a review hearing the court finds that a child has attained competency, the  
 6356 suspended proceedings shall be resumed and the time limits applicable under Article 5 or  
 6357 6 of this chapter shall begin to run from the date of the order finding the child mentally  
 6358 competent.

6359 (c) If at a review hearing held following the court's receipt of a DBHDD or licensed  
 6360 psychologist or psychiatrist's report the court finds that a child's incompetency has not been  
 6361 remediated but that such child has made substantial progress toward remediation, the court  
 6362 may extend the competency remediation program period for an additional 60 days if the  
 6363 court determines by clear and convincing evidence that further participation is likely to lead  
 6364 to remediation of competency.

6365 (d) If at a review hearing the court finds that a child's competency is not remediated and  
 6366 is not likely to be remediated within the time left before such child's eighteenth birthday.

6367 the court shall dismiss the petition with prejudice if such child is alleged to be a child in  
 6368 need of services or to have committed a delinquent act which would be a misdemeanor if  
 6369 committed by an adult.

6370 (e) At each review hearing, the court shall also consider whether the petition alleging  
 6371 delinquency or that a child is a child in need of services should be withdrawn, maintained,  
 6372 or dismissed, without prejudice, upon grounds other than a child's being incompetent to  
 6373 proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a  
 6374 petition alleging a delinquent act which would be a felony if committed by an adult if a  
 6375 child is later determined to be mentally competent. The prosecuting attorney may also seek  
 6376 transfer to superior court if a child is later determined to be mentally competent and  
 6377 otherwise meets all the requirements for transfer under Article 6 of this chapter.

6378 ARTICLE 8

6379 15-11-680.

6380 This article shall be known and may be cited as the 'Parental Notification Act.'

6381 15-11-681.

6382 As used in this article, the term:

6383 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any  
 6384 other substance or device with the intent to terminate the pregnancy of a female known  
 6385 to be pregnant. The term 'abortion' shall not include the use or prescription of any  
 6386 instrument, medicine, drug, or any other substance or device employed solely to increase  
 6387 the probability of a live birth, to preserve the life or health of the child after live birth, or  
 6388 to remove a dead unborn child who died as a result of a spontaneous abortion. The term  
 6389 'abortion' also shall not include the prescription or use of contraceptives.

6390 (2) 'Proper identification' means any document issued by a governmental agency  
 6391 containing a description of the person, the person's photograph, or both, including but not  
 6392 limited to a driver's license, an identification card authorized under Code Sections  
 6393 40-5-100 through 40-5-104 or similar identification card issued by another state, a  
 6394 military identification card, a passport, or an appropriate work authorization issued by the  
 6395 United States Immigration and Customs Enforcement Division of the Department of  
 6396 Homeland Security.

6397 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not  
 6398 been married or who is under the care, custody, and control of such person's parent or  
 6399 parents, guardian, or the juvenile court of competent jurisdiction.

6400 15-11-682.

6401 (a) No physician or other person shall perform an abortion upon an unemancipated minor  
6402 unless:

6403 (1)(A) The unemancipated minor seeking an abortion is accompanied by his or her  
6404 parent or guardian who shall show proper identification and state that he or she is the  
6405 lawful parent or guardian of the unemancipated minor and that he or she has been  
6406 notified that an abortion is to be performed on the unemancipated minor;

6407 (B) The physician or the physician's qualified agent gives at least 24 hours' actual  
6408 notice, in person or by telephone, to the parent or guardian of the unemancipated minor  
6409 of the pending abortion and the name and address of the place where the abortion is to  
6410 be performed; provided, however, that, if the person so notified indicates that he or she  
6411 has been previously informed that the unemancipated minor was seeking an abortion  
6412 or if the person so notified has not been previously informed and he or she clearly  
6413 expresses that he or she does not wish to consult with the unemancipated minor, then  
6414 in either event the abortion may proceed in accordance with Chapter 9A of Title 31; or

6415 (C) The physician or a physician's qualified agent gives written notice of the pending  
6416 abortion and the address of the place where the abortion is to be performed, sent by  
6417 registered or certified mail or statutory overnight delivery, return receipt requested with  
6418 delivery confirmation, addressed to a parent or guardian of the unemancipated minor  
6419 at the usual place of abode of the parent or guardian. Unless proof of delivery is  
6420 otherwise sooner established, such notice shall be deemed delivered 48 hours after  
6421 mailing. The time of mailing shall be recorded by the physician or agent in the  
6422 unemancipated minor's file. The abortion may be performed 24 hours after the delivery  
6423 of the notice; provided, however, that, if the person so notified certifies in writing that  
6424 he or she has been previously informed that the unemancipated minor was seeking an  
6425 abortion or if the person so notified has not been previously informed and he or she  
6426 certifies in writing that he or she does not wish to consult with the unemancipated  
6427 minor, then in either event the abortion may proceed in accordance with Chapter 9A of  
6428 Title 31; and

6429 (2) The unemancipated minor signs a consent form stating that she consents, freely and  
6430 without coercion, to the abortion.

6431 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the  
6432 case may be, elects not to comply with any one of the requirements of subparagraph  
6433 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of  
6434 the unemancipated minor cannot be located, the unemancipated minor may petition, on his  
6435 or her own behalf or by next friend, any juvenile court in the state for a waiver of such  
6436 requirement pursuant to the procedures provided for in Code Section 15-11-684. The

6437 juvenile court shall assist the unemancipated minor or next friend in preparing the petition  
 6438 and notices required pursuant to this Code section. Venue shall be lawful in any county.  
 6439 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),  
 6440 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the unemancipated minor has  
 6441 obtained a court order waiving such requirements.

6442 15-11-683.

6443 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,  
 6444 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the  
 6445 date, time, and place of the hearing in such proceedings at the time of filing the petition.  
 6446 The hearing shall be held within three days of the date of filing, excluding weekends and  
 6447 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall  
 6448 not be served with the petition or with a summons or otherwise notified of the proceeding.  
 6449 If a hearing is not held within the time prescribed in this Code section, the petition shall be  
 6450 deemed granted.

6451 15-11-684.

6452 (a) An unemancipated minor may participate in proceedings in the court on such minor's  
 6453 own behalf and the court shall advise such minor of the right to court appointed counsel  
 6454 and shall provide such minor with such counsel upon request or if such minor is not already  
 6455 adequately represented.

6456 (b) All court proceedings under this Code section shall be conducted in a manner to  
 6457 preserve the complete anonymity of the parties and shall be given such precedence over  
 6458 other pending matters as is necessary to ensure that a decision is reached by the court as  
 6459 expeditiously as is possible under the circumstances of the case. In no event shall the  
 6460 name, address, birth date, or social security number of such minor be disclosed.

6461 (c) The requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section  
 6462 15-11-682 shall be waived if the court finds either:

6463 (1) That the unemancipated minor is mature enough and well enough informed to make  
 6464 the abortion decision in consultation with her physician, independently of the wishes of  
 6465 such minor's parent or guardian; or

6466 (2) That the notice to a parent or, if the unemancipated minor is subject to guardianship,  
 6467 the legal guardian pursuant to Code Section 15-11-682 would not be in the best interests  
 6468 of such minor.

6469 (d) A court that conducts proceedings under this Code section shall issue written and  
 6470 specific factual findings and legal conclusions supporting its decision and shall order that  
 6471 a record of the evidence be maintained. The juvenile court shall render its decision within

6472 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished  
6473 immediately to the unemancipated minor. If the juvenile court fails to render its decision  
6474 within 24 hours after the conclusion of the hearing, then the petition shall be deemed  
6475 granted. All juvenile court records shall be sealed in a manner that will preserve  
6476 anonymity.

6477 (e) An expedited appeal completely preserving the anonymity of the parties shall be  
6478 available to any unemancipated minor to whom the court denies a waiver of notice. The  
6479 appellate courts are authorized and requested to issue promptly such rules as are necessary  
6480 to preserve anonymity and to ensure the expeditious disposition of procedures provided by  
6481 this Code section. In no event shall the name, address, birth date, or social security number  
6482 of such minor be disclosed during the expedited appeal or thereafter.

6483 (f) No filing fees shall be required of any unemancipated minor who uses the procedures  
6484 provided by this Code section.

6485 15-11-685.

6486 The requirements and procedures of this article shall apply to all unemancipated minors  
6487 within this state whether or not such persons are residents of this state.

6488 15-11-686.

6489 This article shall not apply when, in the best clinical judgment of the attending physician  
6490 on the facts of the case before him or her, a medical emergency exists that so complicates  
6491 the condition of the unemancipated minor as to require an immediate abortion. A person  
6492 who performs an abortion as a medical emergency under the provisions of this Code  
6493 section shall certify in writing the medical indications on which this judgment was based  
6494 when filing such reports as are required by law.

6495 15-11-687.

6496 Any physician or any person employed or connected with a physician, hospital, or health  
6497 care facility performing abortions who acts in good faith shall be justified in relying on the  
6498 representations of the unemancipated minor or of any other person providing the  
6499 information required under this article. No physician or other person who furnishes  
6500 professional services related to an act authorized or required by this article and who relies  
6501 upon the information furnished pursuant to this article shall be held to have violated any  
6502 criminal law or to be civilly liable for such reliance, provided that the physician or other  
6503 person acted in good faith.

6504 15-11-688.

6505 Any person who violates the provisions of this article shall be guilty of a misdemeanor and  
 6506 any person who intentionally encourages another to provide false information pursuant to  
 6507 this article shall be guilty of a misdemeanor.

6508 ARTICLE 9

6509 15-11-700.

6510 (a) As used in this Code section, the term 'dependency proceeding' means a court  
 6511 proceeding stemming from a petition alleging that a child is a dependent child.

6512 (b) The general public shall be admitted to:

6513 (1) An adjudicatory hearing involving an allegation of a class A designated felony act  
 6514 or class B designated felony act;

6515 (2) An adjudicatory hearing involving an allegation of delinquency brought in the  
 6516 interest of any child who has previously been adjudicated for committing a delinquent  
 6517 act; provided, however, the court shall close any delinquency hearing on an allegation of  
 6518 sexual assault or any delinquency hearing at which any party expects to introduce  
 6519 substantial evidence related to matters of dependency;

6520 (3) Any child support hearing;

6521 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

6522 (5) At the court's discretion, any dispositional hearing involving any proceeding under  
 6523 this article; or

6524 (6) Any hearing in a dependency proceeding, except as otherwise provided in  
 6525 subsection (c) of this Code section.

6526 (c) The court may close the hearing in a dependency proceeding only upon making a  
 6527 finding upon the record and issuing a signed order stating the reason or reasons for closing  
 6528 all or part of a hearing in such proceeding and stating that:

6529 (1) The proceeding involves an allegation of an act which, if done by an adult, would  
 6530 constitute a sexual offense under Chapter 6 of Title 16; or

6531 (2) It is in the best interests of the child. In making such a determination, the court shall  
 6532 consider such factors as:

6533 (A) The age of the child alleged or adjudicated as a dependent child;

6534 (B) The nature of the allegations;

6535 (C) The effect that an open court proceeding will have on the court's ability to reunite  
 6536 and rehabilitate the family unit; and

6537 (D) Whether the closure is necessary to protect the privacy of a child, of a foster parent  
 6538 or other caretaker of a child, or of a victim of domestic violence.

6539 (d) The court may close a hearing or exclude a person from a hearing in any proceeding  
 6540 on its own motion, by motion of a party to the proceeding, or by motion of the child who  
 6541 is the subject of the proceeding or the child's attorney or guardian ad litem.

6542 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her  
 6543 assistance, the victim, and any other persons as the court finds have a proper interest in the  
 6544 proceeding or in the work of the court may be admitted by the court to hearings from which  
 6545 the public is excluded; provided, however, that when the conduct alleged in the dependency  
 6546 proceeding could give rise to a criminal or delinquent act prosecution, attorneys for the  
 6547 prosecution and the defense shall be admitted.

6548 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a  
 6549 finding upon the record and issuing a signed order that the person's presence at the hearing  
 6550 would:

6551 (1) Be detrimental to the best interests of the child who is a party to the proceeding;

6552 (2) Impair the fact-finding process; or

6553 (3) Be otherwise contrary to the interest of justice.

6554 (g) The court may temporarily exclude any child from a termination of parental rights  
 6555 hearing except while allegations of his or her delinquency or child in need of services  
 6556 conduct are being heard.

6557 (h) Any request for installation and use of electronic recording, transmission, videotaping,  
 6558 or motion picture or still photography of any judicial proceeding shall be made to the court  
 6559 at least two days in advance of the hearing. The request shall be evaluated by the court  
 6560 pursuant to the standards set forth in Code Section 15-1-10.1.

6561 (i) The judge may order the media not to release identifying information concerning any  
 6562 child or family members or foster parent or other caretaker of a child involved in hearings  
 6563 open to the public.

6564 (j) The general public shall be excluded from proceedings in juvenile court unless such  
 6565 hearing has been specified as one in which the general public shall be admitted to pursuant  
 6566 to this Code section.

6567 15-11-701.

6568 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child  
 6569 in need of services or completion of the process in a case handled through informal  
 6570 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing  
 6571 of the files and records in the case.

6572 (b) On application of a person who has been adjudicated for committing a delinquent act  
 6573 or as a child in need of services or on the court's own motion, and after a hearing, the court  
 6574 shall order the sealing of the files and records in the proceeding if the court finds that:

- 6575 (1) Two years have elapsed since the final discharge of the person;  
6576 (2) Since the final discharge of the person he or she has not been convicted of a felony  
6577 or of a misdemeanor involving moral turpitude or adjudicated for committing a  
6578 delinquent act or as a child in need of services and no proceeding seeking conviction or  
6579 adjudication is pending against the person; and  
6580 (3) The person has been rehabilitated.
- 6581 (c) On application of a person who has been adjudicated for a delinquent act or on the  
6582 court's own motion, and after a hearing, the court shall order the sealing of the files and  
6583 records in the proceeding, including those specified in Code Sections 15-11-702 and  
6584 15-11-708, if the court finds that the child was adjudicated for a delinquent act for a sexual  
6585 crime as defined in Code Section 16-3-6 and such crime resulted from the child being:  
6586 (1) Trafficked for sexual servitude in violation of Code Section 16-5-46; or  
6587 (2) A victim of sexual exploitation as defined in Code Section 49-5-40.
- 6588 (d) Reasonable notice of the hearing required by subsection (b) and (c) of this Code  
6589 section shall be given to:  
6590 (1) The prosecuting attorney;  
6591 (2) DJJ, when appropriate;  
6592 (3) The authority granting the discharge if the final discharge was from an institution or  
6593 from parole; and  
6594 (4) The law enforcement officers or department having custody of the files and records  
6595 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included  
6596 in the application or motion.
- 6597 (e) Upon the entry of the order the proceeding shall be treated as if it had never occurred.  
6598 All index references shall be deleted and the person, the court, the law enforcement  
6599 officers, and the departments shall properly reply that no record exists pertaining to the  
6600 person upon inquiry in any matter. Copies of the order shall be sent to each agency or  
6601 designated official and shall also be sent to the deputy director of the Georgia Crime  
6602 Information Center of the Georgia Bureau of Investigation. Inspection of the sealed files  
6603 and records thereafter may be permitted by an order of the court upon petition by the  
6604 person who is the subject of the records and otherwise only by those persons named in the  
6605 order or to criminal justice officials upon petition to the court for official judicial  
6606 enforcement or criminal justice purposes.
- 6607 (f) The court may seal any record containing information identifying a victim of an act  
6608 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6609 15-11-702.

6610 (a)(1) Every child charged with an offense that would be a felony if committed by an  
6611 adult shall be fingerprinted and photographed upon being taken into custody.

6612 (2) Fingerprints and photographs of children to be used in investigating the commission  
6613 of crimes shall be taken and filed separately from those of adults by law enforcement  
6614 officials and shall be made available as provided in this article and as may be directed by  
6615 the court.

6616 (b) Fingerprint files and photographs of children may be inspected by law enforcement  
6617 officers when necessary for criminal justice purposes and for the discharge of their official  
6618 duties. Other inspections may be authorized by the court in individual cases upon a  
6619 showing that it is necessary in the public interest.

6620 (c) If a child has been charged with an offense that if committed by an adult would be a  
6621 felony or if the case is transferred to another court for prosecution, such child's  
6622 identification data, and other pertinent information shall be forwarded to the Georgia Crime  
6623 Information Center of the Georgia Bureau of Investigation. The center shall create a  
6624 juvenile fingerprint file and enter the data into the computerized criminal history files. The  
6625 Georgia Bureau of Investigation shall act as the official state repository for juvenile history  
6626 data and shall be authorized to disseminate such data for the purposes specified in Code  
6627 Section 15-11-708.

6628 (d) Upon application of a child, fingerprints and photographs of such child shall be  
6629 removed from the file and destroyed if a petition alleging delinquency is not filed or the  
6630 proceedings are dismissed after either such petition is filed or the case is transferred to the  
6631 juvenile court or the child is adjudicated not to be a delinquent child. The court shall notify  
6632 the deputy director of the Georgia Crime Information Center when fingerprints and  
6633 photographs are destroyed, and the Georgia Bureau of Investigation shall treat such records  
6634 in the same manner as criminal history record information is restricted pursuant to Code  
6635 Section 35-3-37.

6636 (e) Except as provided in subsection (a) of this Code section, without the consent of the  
6637 judge, a child shall not be photographed after he or she is taken into custody unless the case  
6638 is transferred to another court for prosecution.

6639 (f) Upon request, the judge or his or her designee shall release the name of any child with  
6640 regard to whom a petition has been filed alleging a child committed a class A designated  
6641 felony act or class B designated felony act or alleging a child committed a delinquent act  
6642 if such child has previously been adjudicated for committing a delinquent act or if such  
6643 child has previously been before the court on a delinquency charge and adjudication was  
6644 withheld.

6645 15-11-703.

6646 Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child  
 6647 and evidence adduced in a hearing in the juvenile court may not be used against such child  
 6648 in any proceeding in any court other than for a proceeding for delinquency or a child in  
 6649 need of services, whether before or after reaching 18 years of age, except in the  
 6650 establishment of conditions of bail, plea negotiations, and sentencing in criminal offenses;  
 6651 and, in such excepted cases, such records of dispositions and evidence shall be available  
 6652 to prosecuting attorneys, superior or state court judges, and the accused and may be used  
 6653 in the same manner as adult records.

6654 15-11-704.

6655 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705  
 6656 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be  
 6657 open to inspection only upon order of the court.

6658 (b) The general public shall be allowed to inspect court files and records for any  
 6659 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection  
 6660 (b) of Code Section 15-11-700.

6661 (c) A judge may permit authorized representatives of recognized organizations compiling  
 6662 statistics for proper purposes to inspect and make abstracts from official records under  
 6663 whatever conditions upon their use and distribution such judge may deem proper and may  
 6664 punish by contempt any violation of those conditions.

6665 (d) A judge shall permit authorized representatives of DJJ, the Governor's Office for  
 6666 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data  
 6667 from any court files and records for the purpose of obtaining statistics on children and to  
 6668 make copies pursuant to the order of the court.

6669 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the  
 6670 complaint, petition, order of adjudication, and order of disposition in any delinquency case  
 6671 shall be disclosed upon request of the prosecuting attorney or the accused for use  
 6672 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a  
 6673 court of record.

6674 15-11-705.

6675 (a) Notwithstanding other provisions of this article, the court records of proceedings under  
 6676 Article 5 of this chapter shall be withheld from public inspection but shall be open to  
 6677 inspection by juvenile probation and parole officers, a child who is a party in a proceeding,  
 6678 his or her parent, guardian, or legal custodian, such child's attorney, and others entrusted

6679 with the supervision of such child. Additional access to court records may be granted by  
 6680 court order.

6681 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to  
 6682 persons other than those entitled to access under subsection (a) of this Code section, except  
 6683 by court order. Any person who knowingly violates this subsection shall be guilty of  
 6684 contempt and the court may enter any order authorized by the provisions of Code Section  
 6685 15-11-31.

6686 15-11-706.

6687 (a) When a decision is made to handle a case through informal adjustment, mediation, or  
 6688 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court  
 6689 in the county in which a child legally resides all of the following information:

6690 (1) The name, address, and date of birth of the child subject to informal adjustment,  
 6691 mediation, or other nonadjudicatory procedure;

6692 (2) The act or offense for which such child was apprehended;

6693 (3) The diversion decision made;

6694 (4) The nature of such child's compliance with an informal adjustment agreement; and

6695 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the  
 6696 revocation.

6697 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in  
 6698 which a child resides shall keep a separate record for such child which shall be open to the  
 6699 court, the prosecuting attorney, or an officer designated by the court only for the purpose  
 6700 of deciding whether to handle a subsequent case through informal adjustment, mediation,  
 6701 or other nonadjudicatory procedure or for use in disposition of a subsequent proceeding.  
 6702 Any person who knowingly violates this subsection shall be guilty of contempt and the  
 6703 court may enter any order authorized by the provisions of Code Section 15-11-31.

6704 15-11-707.

6705 Within 30 days of any proceeding in which a child is adjudicated for committing a  
 6706 delinquent act for a second or subsequent time or is adjudicated for committing a class A  
 6707 designated felony act or class B designated felony act, the court shall provide written notice  
 6708 to the school superintendent of the school in which such child is enrolled or his or her  
 6709 designee or, if the information is known, of the school in which such child plans to be  
 6710 enrolled at a future date. Such notice shall include the specific delinquent act or class A  
 6711 designated felony act or class B designated felony act such child committed.

6712 15-11-708.

6713 (a) Law enforcement records and files concerning a child shall be kept separate from the  
6714 records and files of arrests of adults.

6715 (b) Unless a charge of delinquency is transferred for criminal prosecution, the interest of  
6716 national security requires, the case is one in which the general public may not be excluded  
6717 from the hearings, or the court otherwise orders in the best interests of the child, the records  
6718 and files shall not be open to public inspection nor shall their contents be disclosed to the  
6719 public.

6720 (c) Inspection of the records and files shall be permitted by:

6721 (1) A juvenile court having a child before it in any proceeding;

6722 (2) The attorney for a party to the proceedings, with the consent of the court;

6723 (3) The officers of public institutions or agencies to whom a child is committed;

6724 (4) Law enforcement officers and prosecuting attorneys of this state, the United States,  
6725 or any other jurisdiction when necessary for the discharge of their official duties;

6726 (5) A court in which a child is convicted of a criminal offense, for the purpose of a  
6727 presentence report or other disposition proceeding;

6728 (6) Officials of penal institutions and other penal facilities to which a child is committed;  
6729 or

6730 (7) A parole board in considering a child's parole or discharge or in exercising  
6731 supervision over such child.

6732 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for  
6733 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law  
6734 enforcement records for the purpose of obtaining statistics on children.

6735 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall  
6736 be limited to the administration of criminal justice purposes.

6737 15-11-709.

6738 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,  
6739 the juvenile court shall make and keep records of all cases brought before it and shall  
6740 preserve the records pertaining to a child in accordance with the common records retention  
6741 schedules for courts approved by the State Records Committee pursuant to Code Section  
6742 50-18-92.

6743 (b) Thereafter, the court may destroy such records, except that the records of cases in  
6744 which a court terminates the parental rights of a parent and the records of cases involving  
6745 a petition for legitimation of a child shall be preserved permanently.

6746 (c) The juvenile court shall make official minutes consisting of all petitions and orders  
6747 filed in a case and any other pleadings, certificates, proofs of publication, summonses,

6748 warrants, and other writs which may be filed and shall make social records consisting of  
 6749 records of investigation and treatment and other confidential information.

6750 (d) Identification data shall be maintained and shall be disseminated to criminal justice  
 6751 officials for official judicial enforcement or criminal justice purposes as provided in Code  
 6752 Section 35-3-33.

6753 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from  
 6754 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor  
 6755 shall a juvenile court clerk be prohibited from combining or consolidating any books,  
 6756 dockets, files, or indexes in connection with the filing for record of papers of the kind  
 6757 specified in this chapter or any other law, provided that any automated or computerized  
 6758 record-keeping method or system shall provide for the systematic and safe preservation and  
 6759 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court  
 6760 elects to store for computer retrieval any or all records, the same data elements used in a  
 6761 manual system shall be used, and the same integrity and security shall be maintained.

6762 15-11-710.

6763 (a) As used in this Code section, the term 'governmental entity' shall mean the court,  
 6764 superior court, DJJ, DBHDD, DFACS, county departments of family and children services,  
 6765 or public schools, as such term is defined in Code Section 16-11-35.

6766 (b) Governmental entities and state, county, municipal, or consolidated government  
 6767 departments, boards, or agencies shall exchange with each other all information not held  
 6768 as confidential pursuant to federal law and relating to a child which may aid a  
 6769 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,  
 6770 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,  
 6771 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,  
 6772 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,  
 6773 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,  
 6774 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of  
 6775 such child. Information which is shared pursuant to this subsection shall not be utilized to  
 6776 assist in the prosecution of a child in juvenile, superior, or state court or utilized to the  
 6777 detriment of such child.

6778 (c) Information released pursuant to this Code section shall not change or rescind the  
 6779 confidential nature of such information and such information shall not be subject to public  
 6780 disclosure or inspection unless otherwise provided by law.

ARTICLE 10

6781

6782 15-11-720.

6783 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the  
 6784 court as provided in this article by a child who is at least 16 years of age.

6785 (b) An emancipation occurs by operation of law:6786 (1) When a child is validly married;6787 (2) When a child reaches the age of 18 years; or

6788 (3) During the period when a child is on active duty with the armed forces of the United  
 6789 States.

6790 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the  
 6791 juvenile court.

6792 15-11-721.

6793 A child seeking emancipation shall file a petition for emancipation in the juvenile court in  
 6794 the county where such child resides. The petition shall be signed and verified by the  
 6795 petitioner, and shall include:

6796 (1) The petitioner's full name and birth date and the county and state where the petitioner  
 6797 was born;

6798 (2) A certified copy of the petitioner's birth certificate;

6799 (3) The name and last known address of the petitioner's parent, guardian, or legal  
 6800 custodian and, if no parent, guardian, or legal custodian can be found, the name and  
 6801 address of the petitioner's nearest living relative residing within this state;

6802 (4) The petitioner's present address and length of residency at that address;

6803 (5) A declaration by the petitioner demonstrating the ability to manage his or her  
 6804 financial affairs together with any information necessary to support the declaration;

6805 (6) A declaration by the petitioner demonstrating the ability to manage his or her  
 6806 personal and social affairs together with any information necessary to support the  
 6807 declaration; and

6808 (7) The names of individuals who have personal knowledge of the petitioner's  
 6809 circumstances and believe that under those circumstances emancipation is in the best  
 6810 interests of the petitioner. Such individuals may include any of the following:

6811 (A) A licensed physician, physician assistant, or osteopath;6812 (B) A registered professional nurse or licensed practical nurse;6813 (C) A licensed psychologist;6814 (D) A licensed professional counselor, social worker, or marriage and family therapist;6815 (E) A school guidance counselor, school social worker, or school psychologist;

6816 (F) A school administrator, school principal, or school teacher;

6817 (G) A member of the clergy;

6818 (H) A law enforcement officer; or

6819 (I) An attorney.

6820 15-11-722.

6821 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to  
 6822 appear at the hearing shall be served on all persons named in the petition and upon any  
 6823 individual who provided an affidavit for the emancipation.

6824 (b) A person served with a petition may file an answer in the juvenile court in which the  
 6825 petition was filed within 30 days of being served.

6826 15-11-723.

6827 (a) After a petition for emancipation is filed, the court may:

6828 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file  
 6829 a report with the court, including a recommendation as to whether it is in the best  
 6830 interests of the petitioner that the petition for emancipation be granted;

6831 (2) Appoint an attorney for the petitioner; and

6832 (3) Appoint an attorney for the petitioner's parent, guardian, or legal custodian if he or  
 6833 she is an indigent person and if he or she opposes the petition.

6834 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each  
 6835 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 that  
 6836 describes why that person believes the petitioner should be emancipated.

6837 15-11-724.

6838 A child who petitions the court for emancipation shall have the burden of showing that  
 6839 emancipation should be ordered by a preponderance of evidence.

6840 15-11-725.

6841 (a) The court shall issue an emancipation order if, after a hearing, it determines that  
 6842 emancipation is in the best interests of the child and such child has established:

6843 (1) That his or her parent, guardian, or legal custodian does not object to the petition; or,  
 6844 if a parent, guardian, or legal custodian objects to the petition, that the best interests of  
 6845 the child are served by allowing the emancipation to occur by court order;

6846 (2) That he or she is a resident of this state;

6847 (3) That he or she has demonstrated the ability to manage his or her financial affairs,  
 6848 including proof of employment or other means of support. 'Other means of support' shall

6849 not include general assistance or aid received from means-tested public assistance  
6850 programs such as Temporary Assistance for Needy Families as provided in Article 9 of  
6851 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security  
6852 Act;

6853 (4) That he or she has the ability to manage his or her personal and social affairs,  
6854 including, but not limited to, proof of housing; and

6855 (5) That he or she understands his or her rights and responsibilities under this article as  
6856 an emancipated child.

6857 (b) If the court issues an emancipation order, the court shall retain a copy of the order until  
6858 the emancipated child becomes 25 years of age.

6859 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall  
6860 not affect an obligation, responsibility, right, or interest that arose during the period of time  
6861 the order was in effect.

6862 (d) A child or his or her parent, guardian, or legal custodian may appeal the court's grant  
6863 or denial of an emancipation petition.

6864 15-11-726.

6865 (a) A child emancipated by court order may petition the juvenile court that issued the  
6866 emancipation order to rescind such order.

6867 (b) A copy of the petition for rescission and a summons shall be served on the petitioner's  
6868 parent, guardian, or legal custodian.

6869 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

6870 (1) That the petitioner is an indigent person and has no means of support;

6871 (2) That the petitioner and the petitioner's parent, guardian, or legal custodian agree that  
6872 the order should be rescinded; or

6873 (3) That there is a resumption of family relations inconsistent with the existing  
6874 emancipation order.

6875 (d) If a petition for rescission is granted, the court shall issue an order rescinding the  
6876 emancipation order and retain a copy of the order until the petitioner becomes 25 years of  
6877 age.

6878 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights  
6879 or any property rights or interests that arose during the period of time that the emancipation  
6880 order was in effect.

6881 (f) A child or his or her parent, guardian, or legal custodian may appeal the court's grant  
6882 or denial of a petition for rescission of an emancipation order. The appeal shall be filed in  
6883 the Court of Appeals.

6884 15-11-727.

6885 (a) A child emancipated by operation of law or by court order shall be considered to have  
 6886 the rights and responsibilities of an adult, except for those specific constitutional and  
 6887 statutory age requirements regarding voting, use of alcoholic beverages, and other health  
 6888 and safety regulations relevant to a child because of his or her age. The rights of a child  
 6889 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors  
 6890 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,  
 6891 the Uniform Gift to Minors Act, or other substantially similar act of another state; or  
 6892 pursuant to a trust agreement shall not be affected by a declaration of an emancipation  
 6893 under this article.

6894 (b) A child shall be considered emancipated for the purposes of, but not limited to:

6895 (1) The right to enter into enforceable contracts, including apartment leases;

6896 (2) The right to sue or be sued in his or her own name;

6897 (3) The right to retain his or her own earnings;

6898 (4) The right to establish a separate domicile;

6899 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in  
 6900 all business relationships, including but not limited to property transactions and obtaining  
 6901 accounts for utilities, except for those estate or property matters that the court determines  
 6902 may require a conservator or guardian ad litem;

6903 (6) The right to earn a living, subject only to the health and safety regulations designed  
 6904 to protect those under the age of 18 regardless of their legal status;

6905 (7) The right to authorize his or her own preventive health care, medical care, dental  
 6906 care, and mental health care, without parental knowledge or liability;

6907 (8) The right to apply for a driver's license or other state licenses for which he or she  
 6908 might be eligible;

6909 (9) The right to register for school;

6910 (10) The right to apply for medical assistance programs and for other welfare assistance,  
 6911 if needed;

6912 (11) The right, if a parent, to make decisions and give authority in caring for his or her  
 6913 own minor child; and

6914 (12) The right to make a will.

6915 (c) A parent, guardian, or legal custodian of a child emancipated by court order shall not  
 6916 be liable for any debts incurred by his or her child during the period of emancipation.

6917 15-11-728.

6918 (a) The duty to provide support for a child shall continue until an emancipation order is  
 6919 granted.

6920 (b) A child emancipated under this article shall not be considered a dependent child.

6921 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract  
 6922 for marriage shall apply to a child who has become emancipated under this article.

6923 ARTICLE 11

6924 15-11-740.

6925 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the  
 6926 Protection of Children Act.'

6927 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security  
 6928 of children whose well-being is threatened, it is the intent of the General Assembly that the  
 6929 mission of protection of the children of this state should have the greatest legislative and  
 6930 executive priority. Recognizing that the needs of children must be attended to in a timely  
 6931 manner and that more aggressive action should be taken to protect children from abuse and  
 6932 neglect, the General Assembly creates the Office of the Child Advocate for the Protection  
 6933 of Children to provide independent oversight of persons, organizations, and agencies  
 6934 responsible for providing services to or caring for children who are victims of child abuse  
 6935 and neglect or whose domestic situation requires intervention by the state. The Office of  
 6936 the Child Advocate for the Protection of Children will provide children with an avenue  
 6937 through which to seek relief when their rights are violated by state officials and agents  
 6938 entrusted with their protection and care.

6939 15-11-741.

6940 As used in this article, the term:

6941 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of  
 6942 Children established under Code Section 15-11-742.

6943 (2) 'Agency' shall have the same meaning and application as provided for in  
 6944 paragraph (1) of subsection (a) of Code Section 50-14-1.

6945 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for  
 6946 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other  
 6947 caretakers have been, the subject of a report to DFCS within the previous five years.

6948 15-11-742.

6949 (a) There is created the Office of the Child Advocate for the Protection of Children. The  
 6950 Governor, by executive order, shall create a nominating committee which shall consider  
 6951 nominees for the position of the advocate and shall make a recommendation to the  
 6952 Governor. Such person shall have knowledge of the child welfare system, the juvenile

6953 justice system, and the legal system and shall be qualified by training and experience to  
6954 perform the duties of the office as set forth in this article.

6955 (b) The advocate shall be appointed by the Governor from a list of at least three names  
6956 submitted by the nominating committee for a term of three years and until his or her  
6957 successor is appointed and qualified and may be reappointed. The salary of the advocate  
6958 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come  
6959 from funds appropriated for the purposes of the advocate.

6960 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to  
6961 the Office of Planning and Budget for administrative purposes only, as described in Code  
6962 Section 50-4-3.

6963 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill  
6964 the purposes of this article, within the limitations of the funds available for the purposes  
6965 of the advocate. The duties of the staff may include the duties and powers of the advocate  
6966 if performed under the direction of the advocate. The advocate and his or her staff shall  
6967 receive such reimbursement for travel and other expenses as is normally allowed to state  
6968 employees from funds appropriated for the purposes of the advocate.

6969 (e) The advocate shall have the authority to contract with experts in fields including but  
6970 not limited to medicine, psychology, education, child development, juvenile justice, mental  
6971 health, and child welfare as needed to support the work of the advocate, utilizing funds  
6972 appropriated for the purposes of the advocate.

6973 (f) Notwithstanding any other provision of state law, the advocate shall act independently  
6974 of any state official, department, or agency in the performance of his or her duties.

6975 (g) The advocate or his or her designee shall be a member of the Georgia Child Fatality  
6976 Review Panel.

6977 15-11-743.

6978 The advocate shall perform the following duties:

6979 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made  
6980 by or on behalf of children concerning any act, omission to act, practice, policy, or  
6981 procedure of an agency or any contractor or agent thereof that may adversely affect the  
6982 health, safety, or welfare of the children;

6983 (2) Refer complaints involving abused children to appropriate regulatory and law  
6984 enforcement agencies;

6985 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel  
6986 created by Code Section 19-15-4 and provide such staffing and administrative support to  
6987 the panel as may be necessary to enable the panel to carry out its statutory duties;

6988 (4) Report the death of any child to the chairperson of the child fatality review  
 6989 subcommittee of the county in which such child resided at the time of death, unless the  
 6990 advocate has knowledge that such death has been reported by the county medical  
 6991 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such  
 6992 subcommittee access to any records of the advocate relating to such child;

6993 (5) Provide periodic reports on the work of the Office of the Child Advocate for the  
 6994 Protection of Children, including but not limited to an annual written report for the  
 6995 Governor and the General Assembly and other persons, agencies, and organizations  
 6996 deemed appropriate. Such reports shall include recommendations for changes in policies  
 6997 and procedures to improve the health, safety, and welfare of children and shall be made  
 6998 expeditiously in order to timely influence public policy;

6999 (6) Establish policies and procedures necessary for the Office of the Child Advocate for  
 7000 the Protection of Children to accomplish the purposes of this article, including without  
 7001 limitation providing DFCS with a form of notice of availability of the Office of the Child  
 7002 Advocate for the Protection of Children. Such notice shall be posted prominently, by  
 7003 DFCS, in DFCS offices and in facilities receiving public moneys for the care and  
 7004 placement of children and shall include information describing the Office of the Child  
 7005 Advocate for the Protection of Children and procedures for contacting that office; and

7006 (7) Convene quarterly meetings with organizations, agencies, and individuals who work  
 7007 in the area of child protection to seek opportunities to collaborate and improve the status  
 7008 of children in Georgia.

7009 15-11-744.

7010 (a) The advocate shall have the following rights and powers:

7011 (1) To communicate privately, by mail or orally, with any child and with each child's  
 7012 parent, guardian, or legal custodian;

7013 (2) To have access to all records and files of DFCS concerning or relating to a child, and  
 7014 to have access, including the right to inspect, copy, and subpoena records held by clerks  
 7015 of the various courts, law enforcement agencies, service providers, including medical and  
 7016 mental health, and institutions, public or private, with whom a particular child has been  
 7017 either voluntarily or otherwise placed for care or from whom the child has received  
 7018 treatment within this state. To the extent any such information provides the names and  
 7019 addresses of individuals who are the subject of any confidential proceeding or statutory  
 7020 confidentiality provisions, such names and addresses or related information that has the  
 7021 effect of identifying such individuals shall not be released to the public without the  
 7022 consent of such individuals. The Office of the Child Advocate for the Protection of  
 7023 Children shall be bound by all confidentiality safeguards provided in Code Sections

7024 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child  
7025 Advocate shall petition the original agency of record where such records exist;  
7026 (3) To enter and inspect any and all institutions, facilities, and residences, public and  
7027 private, where a child has been placed by a court or DFCS and is currently residing.  
7028 Upon entering such a place, the advocate shall notify the administrator or, in the absence  
7029 of the administrator, the person in charge of the facility, before speaking to any children.  
7030 After notifying the administrator or the person in charge of the facility, the advocate may  
7031 communicate privately and confidentially with children in the facility, individually or in  
7032 groups, or the advocate may inspect the physical plant. To the extent possible, entry and  
7033 investigation provided by this Code section shall be conducted in a manner which will  
7034 not significantly disrupt the provision of services to children;  
7035 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus  
7036 or application for injunction pursuant to Code Section 45-15-18 to require an agency to  
7037 take or refrain from taking any action required or prohibited by law involving the  
7038 protection of children;  
7039 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal  
7040 and interstate agencies, independent authorities, private firms, individuals, and  
7041 foundations for the purpose of carrying out the lawful responsibilities of the Office of the  
7042 Child Advocate for the Protection of Children;  
7043 (6) When less formal means of resolution do not achieve appropriate results, to pursue  
7044 remedies provided by this article on behalf of children for the purpose of effectively  
7045 carrying out the provisions of this article; and  
7046 (7) To engage in programs of public education and legislative advocacy concerning the  
7047 needs of children requiring the intervention, protection, and supervision of courts and  
7048 state and county agencies.  
7049 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for  
7050 law enforcement investigative records concerning an ongoing investigation, the  
7051 subpoenaed party may move a court with appropriate jurisdiction to quash such  
7052 subpoena.  
7053 (2) The court shall order a hearing on the motion to quash within five days of the filing  
7054 of the motion to quash, and the hearing may be continued for good cause shown by any  
7055 party or by the court on its own motion. Subject to any right to an open hearing in  
7056 contempt proceedings, such hearing shall be closed to the extent necessary to prevent  
7057 disclosure of the identity of a confidential source; disclosure of confidential investigative  
7058 or prosecution material which would endanger the life or physical safety of any person  
7059 or persons; or disclosure of the existence of confidential surveillance, investigation, or  
7060 grand jury materials or testimony in an ongoing criminal investigation or prosecution.

7061 Records, motions, and orders relating to a motion to quash shall be kept sealed by the  
 7062 court to the extent and for the time necessary to prevent public disclosure of such matters,  
 7063 materials, evidence, or testimony.

7064 (c) The court shall, at or before the time specified in the subpoena for compliance  
 7065 therewith, enter an order:

7066 (1) Enforcing the subpoena as issued;

7067 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

7068 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential

7069 any evidence, testimony, or other information obtained from law enforcement or

7070 prosecution sources pursuant to the subpoena until the time the criminal investigation and

7071 prosecution are concluded. Unless otherwise ordered by the court, an investigation or

7072 prosecution shall be deemed to be concluded when the information becomes subject to

7073 public inspection pursuant to Code Section 50-18-72. The court shall include in its order

7074 written findings of fact and conclusions of law.

7075 15-11-745.

7076 (a) No person shall discriminate or retaliate in any manner against any child, parent,

7077 guardian, or legal custodian of a child, employee of a facility, agency, institution or other

7078 type of provider, or any other person because of the making of a complaint or providing

7079 of information in good faith to the advocate or willfully interfere with the advocate in the

7080 performance of his or her official duties.

7081 (b) Any person violating subsection (a) of this Code section shall be guilty of a

7082 misdemeanor.

7083 15-11-746.

7084 The advocate shall be authorized to request an investigation by the Georgia Bureau of

7085 Investigation of any complaint of criminal misconduct involving a child.

7086 15-11-747.

7087 (a) There is established a Child Advocate Advisory Committee. The advisory committee

7088 shall consist of:

7089 (1) One representative of a not for profit children's agency appointed by the Governor;

7090 (2) One representative of a for profit children's agency appointed by the Lieutenant

7091 Governor;

7092 (3) One pediatrician appointed by the Speaker of the House of Representatives;

7093 (4) One social worker with experience and knowledge of child protective services who

7094 is not employed by the state appointed by the Governor;

7095 (5) One psychologist appointed by the Lieutenant Governor;  
 7096 (6) One attorney from the Children and the Courts Committee of the State Bar of  
 7097 Georgia appointed by the Speaker of the House of Representatives; and  
 7098 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court.  
 7099 Each member of the advisory committee shall serve a two-year term and until the  
 7100 appointment and qualification of such member's successor. Appointments to fill vacancies  
 7101 in such offices shall be filled in the same manner as the original appointment.  
 7102 (b) The advisory committee shall meet a minimum of three times a year with the advocate  
 7103 and his or her staff to review and assess the following:  
 7104 (1) Patterns of treatment and service for children;  
 7105 (2) Policy implications; and  
 7106 (3) Necessary systemic improvements.  
 7107 The advisory committee shall also provide for an annual evaluation of the effectiveness of  
 7108 the Office of the Child Advocate for the Protection of Children."

7109 **PART II**

7110 **PLACEMENT OF JUVENILE OFFENDERS**

7111 **SECTION 2-1.**

7112 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification  
 7113 and separation of inmates generally and the placement of juvenile offenders, is amended by  
 7114 revising subsection (b), as follows:

7115 "(b) The department may establish separate correctional or similar institutions for the  
 7116 separation and care of juvenile offenders. The commissioner may transfer any juvenile  
 7117 under 17 years of age from the penal institution in which he or she is serving to the  
 7118 Department of Juvenile Justice, provided that the transfer is approved thereby. The  
 7119 juvenile may be returned to the custody of the commissioner when the commissioner of  
 7120 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The  
 7121 commissioner may accept a juvenile for transfer into a penal institution upon the request  
 7122 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has  
 7123 been committed to the Department of Juvenile Justice for a class A designated felony act  
 7124 or class B designated felony act, as defined by Code Section 15-11-2, and such juvenile's  
 7125 behavior presents a substantial danger to any person at or within a Department of Juvenile  
 7126 Justice facility. In the event of such transfer, the department shall have the same authority  
 7127 over and responsibility for such juvenile as the Department of Juvenile Justice has for such  
 7128 juvenile and shall maintain sight and sound separation as set forth in paragraph (5) of  
 7129 subsection (c) of Code Section 15-11-504."

7130  
7131  
7132  
7133

**PART III**  
**DEPARTMENT OF JUVENILE JUSTICE AND**  
**CHILDREN AND YOUTH SERVICES**  
**SECTION 3-1.**

7134 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
7135 by revising Code Section 49-4A-1, relating to definitions, as follows:

7136 "49-4A-1.

7137 As used in this chapter, the term:

7138 (1) 'Board' means the Board of Juvenile Justice.

7139 (2) 'Child in need of services' means any child so adjudged under Article 5 of Chapter  
7140 11 of Title 15.

7141 ~~(2)~~(3) 'Commissioner' means the commissioner of juvenile justice.

7142 ~~(3)~~(4) 'Delinquent or unruly child or youth' means any ~~person~~ child so adjudged under  
7143 Article ~~†~~ 6 of Chapter 11 of Title 15.

7144 ~~(4)~~(5) 'Department' means the Department of Juvenile Justice.

7145 (6) 'Detention assessment' means an actuarial tool, approved by the board and validated  
7146 on a targeted population, used to make detention decisions and that identifies and  
7147 calculates specific factors that are likely to indicate a child's risk to public safety pending  
7148 adjudication and the likelihood that such child will appear for juvenile proceedings for  
7149 the act causing the detention decision to be made.

7150 (7) 'Evidence based programs or practices' means programs, practices, procedures, and  
7151 policies that scientific research demonstrates a likelihood to prevent or reduce juvenile  
7152 delinquency or recidivism.

7153 (8) 'Juvenile detention facility' means hardware secure residential institutions or  
7154 community residential locations operated by or on behalf of the department and may  
7155 include youth development centers, regional youth detention centers, group homes,  
7156 emergency shelters, wilderness or outdoor therapeutic programs, or other facilities that  
7157 provide 24 hour care in a residential setting.

7158 (9) 'Recidivism' means a conviction or adjudication of delinquency for an offense or  
7159 crime committed within three years of being placed on probation or being discharged or  
7160 released from a juvenile detention facility.

7161 (10) 'Risk and needs assessment' means an actuarial tool, approved by the board and  
7162 validated on a targeted population, that identifies and calculates specific factors that  
7163 predict a child's likelihood of recidivating and identifies criminal risk factors that, when  
7164 properly addressed, can reduce such child's likelihood of recidivating.

7165 (11) 'Risk assessment' means an actuarial tool, approved by the board and validated on  
 7166 a targeted population, that identifies and calculates specific factors that predict a child's  
 7167 likelihood of recidivating."

7168 **SECTION 3-2.**

7169 Said chapter is further amended by revising subsection (b) of Code Section 49-4A-2, relating  
 7170 to the creation of the Board of Juvenile Justice, as follows:

7171 "(b) The board shall:

7172 (1) Provide ~~provide~~ leadership in developing programs to successfully rehabilitate  
 7173 ~~juvenile delinquents and unruly children~~ delinquent children committed to the state's  
 7174 custody and to provide;

7175 (2) Provide technical assistance to private and public entities for prevention programs  
 7176 for children at risk;

7177 (3) Ensure that detention assessment, risk assessment, and risk and needs assessment  
 7178 instruments that are utilized by intake personnel and courts are developed in consultation  
 7179 with the Governor's Office for Children and Families and the Council of Juvenile Court  
 7180 Judges and ensure that such instruments are validated at least every five years;

7181 (4) Adopt rules and regulations governing the management and treatment of children  
 7182 committed to the department to ensure that evidence based programs or practices,  
 7183 including the use of a risk and needs assessment and any other method the board deems  
 7184 appropriate, guide decisions related to placing a committed child in a facility or into the  
 7185 community, preparing a child's release into the community, and managing children  
 7186 probationers in the community; and

7187 (5) Require the department to collect and analyze data and performance outcomes,  
 7188 including, but not limited to, data collected and maintained pursuant to subsection (n) of  
 7189 Code Section 49-4A-8 and prepare an annual report regarding such information which  
 7190 shall be submitted to the Governor, the Lieutenant Governor, the Speaker of the House  
 7191 of Representatives, and the chairpersons of the House Committee on Judiciary Non-civil  
 7192 and the Senate State Judiciary Committee."

7193 **SECTION 3-3.**

7194 Said chapter is further amended by revising Code Section 49-4A-3, relating to the creation  
 7195 of the Department of Juvenile Justice, as follows:

7196 "49-4A-3.

7197 (a) There is created the Department of Juvenile Justice and the position of commissioner  
 7198 of juvenile justice. ~~The Department of Juvenile Justice shall be the successor entity to the~~  
 7199 ~~Department of Children and Youth Services and the change is intended to be one of name~~

7200 ~~only, and the commissioner of juvenile justice shall be the successor to the commissioner~~  
 7201 ~~of children and youth services and the change is intended to be one of name only.~~ The  
 7202 commissioner shall be the chief administrative officer of the ~~Department of Juvenile Justice~~  
 7203 department and shall be both appointed and removed by the board, subject to the approval  
 7204 of the Governor. The commissioner of human services ~~may~~ shall not also serve as the  
 7205 commissioner of juvenile justice. Subject to the general policy and rules and regulations  
 7206 of the board, the commissioner ~~of juvenile justice~~ shall supervise, direct, account for,  
 7207 organize, plan, administer, and execute the functions of the ~~Department of Juvenile Justice~~  
 7208 department.

7209 (b) The department shall provide for supervision, detention, and rehabilitation of ~~juvenile~~  
 7210 ~~delinquents~~ delinquent children committed to the state's custody. The department shall also  
 7211 be authorized to operate prevention programs and to provide assistance to local public and  
 7212 private entities with prevention programs for ~~juveniles~~ children at risk. In lieu of  
 7213 commitment ~~Additionally,~~ the department ~~will~~ shall be authorized to provide for  
 7214 specialized treatment for ~~juvenile offenders, in lieu of commitment, who have been found~~  
 7215 ~~to be sex offenders or drug abusers~~ children adjudicated for delinquent acts involving  
 7216 sexual offenses or controlled substances and who may have behavior disorders. The  
 7217 department's organization, operation, and implementation shall be based on the following:

7218 (1) Development of a comprehensive continuum of service options using evidence based  
 7219 programs or practices through flexible funding to allow providers to respond to the  
 7220 unique needs and capabilities of individual children and families;

7221 (2) Services implemented so that each child and family served can have a personal  
 7222 relationship with staff, providers, and workers, which staff, providers, and workers shall  
 7223 be trained and treated as professionals, have a range of multidisciplinary skills, and have  
 7224 manageable caseloads;

7225 (3) Services shall be based on evidence based programs or practices and be community  
 7226 centered and responsive to local needs with state and local and public and private entities  
 7227 forming cooperative partnerships that enhance informal support systems for families;

7228 (4) Systems that are accountable, with desired outcomes specified, results measured and  
 7229 evaluated, and cost-efficient options maximized;

7230 (5) Intersystem communication and collaboration that are encouraged and facilitated  
 7231 through coordination of systems so that gaps and unnecessary duplications in planning,  
 7232 funding, and providing services are eliminated;

7233 (6) Being consumer ~~The department shall be consumer~~ driven and responsive to the  
 7234 changing needs of individual communities; and

7235 (7) Encouraging ~~The department shall encourage~~ the central location of various services  
 7236 whenever possible."

**SECTION 3-4.**

7237  
7238 Said chapter is further amended by revising Code Section 49-4A-4, relating to purpose of  
7239 chapter, as follows:

7240 "49-4A-4.

7241 It is the purpose of this chapter to establish the department as the agency to administer,  
7242 supervise, and manage juvenile detention facilities. ~~Except for the purposes of~~  
7243 ~~administration, supervision, and management as provided in this chapter, juvenile detention~~  
7244 ~~facilities shall continue to be detention care facilities for delinquent and unruly children and~~  
7245 ~~youth for the purposes of Article 1 of Chapter 11 of Title 15, relating to juvenile courts and~~  
7246 ~~juvenile proceedings."~~

**SECTION 3-5.**

7247  
7248 Said chapter is further amended by revising subsection (a) of Code Section 49-4A-5, relating  
7249 to transfer of functions and employees of the Division of Youth Services and personnel  
7250 administration, as follows:

7251 "(a) The department shall carry out all functions and exercise all powers relating to the  
7252 administration, supervision, and management of juvenile detention facilities, ~~including~~  
7253 ~~youth development centers, and jurisdiction over said youth development centers and other~~  
7254 ~~such~~ juvenile detention facilities is vested in the department."

**SECTION 3-6.**

7255  
7256 Said chapter is further amended by revising Code Section 49-4A-6, relating to rules and  
7257 regulations, as follows:

7258 "49-4A-6.

7259 (a) The board shall adopt rules and regulations for the government, operation,  
7260 administration, and maintenance of ~~youth development centers and other~~ juvenile detention  
7261 facilities ~~by the department~~ and may also adopt such other rules and regulations for the  
7262 government and operation of the department as the board may deem necessary consistent  
7263 with the provisions of this chapter.

7264 (b) Rules and regulations adopted by the board under subsection (a) of this Code section  
7265 shall recognize that a primary purpose of ~~youth development centers and other~~ juvenile  
7266 detention facilities is to carry out rehabilitative programs using evidence based programs  
7267 or practices to the end that children ~~and youth~~ housed in ~~said centers shall~~ such facilities  
7268 develop ~~their~~ self-respect and self-reliance and acquire the necessary knowledge and skills  
7269 to become good citizens who are qualified for honorable employment."

**SECTION 3-7**

7270

7271 Said chapter is further amended by revising Code Section 49-4A-7, relating to powers and  
7272 duties of the department, as follows:

7273 "49-4A-7.

7274 (a) The department shall be authorized to:

7275 (1) Accept for detention in a ~~youth development center or other~~ juvenile detention  
7276 facility any child who is committed to the department under Article ~~† 6~~ of Chapter 11 of  
7277 Title 15;

7278 (2) Provide probation ~~and parole~~ and other court services for children ~~and youth~~ pursuant  
7279 to a request from a court under Article ~~† 6~~ of Chapter 11 of Title 15;

7280 (3) Provide casework services and care or payment of maintenance costs for children ~~and~~  
7281 ~~youths~~ who have run away from their home communities within this state or from their  
7282 home communities in this state to another state or from their home communities in  
7283 another state to this state; pay the costs of returning such runaway children ~~and youths~~  
7284 to their home communities; and provide such services, care, or costs for runaway children  
7285 ~~and youths~~ as may be required under Chapter 3 of Title 39;

7286 (4) Enter into contracts and cooperative agreements with federal, state, county, and  
7287 municipal governments and their agencies and departments; enter into contracts with  
7288 public and private institutions and agencies of this and other states; enter into leases with  
7289 private vendors selected to operate programs on behalf of the department which ~~leases~~  
7290 shall run concurrently with the department's service contracts; provided, however, that  
7291 any such lease shall provide that if the property which is the subject of the lease is sold  
7292 and conveyed during the term of the lease, such lease shall expire by operation of law 90  
7293 days after the closing of such sale and conveyance; and enter into contracts with  
7294 individuals, as may be necessary or desirable in effectuating the purposes of this chapter;  
7295 and

7296 (5) Solicit and accept donations, contributions, and gifts and receive, hold, and use  
7297 grants, devises, and bequests of real, personal, and mixed property on behalf of the state  
7298 to enable the department to carry out its functions and purposes.

7299 (b) When given legal custody over a child ~~or youth~~ for detention in a ~~youth development~~  
7300 ~~center or other~~ juvenile detention facility under court order under Article ~~† 6~~ of Chapter 11  
7301 of Title 15, the department shall have:

7302 (1) The right of physical possession of ~~the~~ such child ~~or youth~~;

7303 (2) The right and duty to protect, train, and discipline ~~the~~ such child ~~or youth~~;

7304 (3) The responsibility to provide ~~the~~ such child ~~or youth~~ with food, clothing, shelter, and  
7305 education;

7306 (4) The right to determine in which facility ~~the~~ such child ~~or youth~~ shall live and to  
 7307 transfer such child as provided in subsection (b) of Code Section 42-5-52; and

7308 (5) The right and duty to provide or obtain for a such child ~~or youth~~ medical, hospital,  
 7309 psychiatric, surgical, or dental care or services as may be considered appropriate and  
 7310 necessary by competent medical authority without securing prior consent of parents or  
 7311 legal guardians.

7312 (c) The board may authorize the commissioner to enter into contracts and agreements  
 7313 provided for in this Code section subject to the approval of the board or may, through  
 7314 appropriate action of the board, delegate such authority to the commissioner; provided,  
 7315 however, that any contract or agreement that provides services to delinquent children shall  
 7316 be a performance based contract that includes financial incentives or consequences based  
 7317 on the results achieved by the contractor as measured by output, quality, or outcome  
 7318 measures."

### 7319 SECTION 3-8.

7320 Said chapter is further amended by revising Code Section 49-4A-8, relating to commitment  
 7321 of delinquent or unruly children, as follows:

7322 "49-4A-8.

7323 (a) When ~~any child or youth is adjudged to be in a state of delinquency or unruliness under~~  
 7324 ~~Article 1 of Chapter 11 of Title 15 and the court does not release~~ such a delinquent child  
 7325 ~~or youth~~ unconditionally or place him or her on probation or in a suitable public or private  
 7326 institution or agency, the court may commit ~~him~~ such child to the department as provided  
 7327 in ~~said~~ Article ~~1~~ 6 of Chapter 11 of Title 15; provided, however, that no delinquent ~~or~~  
 7328 ~~unruly~~ child ~~or youth~~ shall be committed to the department until the department certifies  
 7329 to the Governor that it has facilities available and personnel ready to assume responsibility  
 7330 for delinquent ~~or unruly~~ children ~~and youths~~.

7331 (b) When the court commits a delinquent ~~or unruly~~ child to the department, it may order  
 7332 ~~the~~ such child conveyed forthwith to any facility designated by the department or direct  
 7333 that ~~the~~ such child be left at liberty until otherwise ordered by the department under such  
 7334 conditions as will ensure his or her availability and submission to any orders of the  
 7335 department. If such delinquent ~~or unruly~~ child is ordered conveyed to the department, the  
 7336 court shall assign an officer or other suitable person to convey such child to any facility  
 7337 designated by the department, provided that the person assigned to convey a girl must be  
 7338 a female. The cost of conveying such child committed to the department to the facility  
 7339 designated by the department shall be paid by the county from which such child is  
 7340 committed, provided that no compensation shall be allowed beyond the actual and  
 7341 necessary expenses of the party conveying and the child conveyed.

7342 (c) When a court commits a delinquent ~~or unruly~~ child to the department, the court shall  
 7343 at once ~~forward to the department~~ electronically submit a certified copy of the order of  
 7344 commitment ~~to the department~~, and the court, the probation officer, the prosecuting and  
 7345 police authorities, the school authorities, and other public officials shall make available to  
 7346 the department all pertinent information in their possession ~~with respect~~ pertaining to the  
 7347 case, ~~including, but not limited to, any predisposition investigation report as set forth in~~  
 7348 Code Section 15-11-590 and any risk assessment. Such reports shall, if the department so  
 7349 requests, be made upon forms furnished by the department or according to an outline  
 7350 provided by the department.

7351 (d)(1) When a delinquent ~~or unruly~~ child has been committed to the department, the  
 7352 department shall, under rules and regulations established by the board, forthwith examine  
 7353 and study ~~the~~ such child and investigate all pertinent circumstances of his or her life and  
 7354 behavior. The department shall make periodic reexaminations of all ~~delinquent or unruly~~  
 7355 such children within its control, except those on release under supervision of the  
 7356 department. Such reexaminations may be made as frequently as the department considers  
 7357 desirable, ~~and shall be made with respect to every~~ such child shall be reexamined at  
 7358 intervals not exceeding one year. Failure of the department to examine a ~~delinquent or~~  
 7359 ~~unruly child~~ such a child committed to it or to reexamine him or her within one year of  
 7360 a previous examination shall not of itself entitle ~~the~~ such child to discharge from control  
 7361 of the department but shall entitle ~~the~~ such child to petition the committing court for an  
 7362 order of discharge; and the court shall discharge him or her unless the department, upon  
 7363 due notice, satisfies the court of the necessity of further control.

7364 (2) The department shall keep written records of all examinations and reexaminations,  
 7365 of conclusions based thereon, and of all orders concerning the disposition or treatment  
 7366 of every delinquent ~~or unruly~~ child subject to its control. Records ~~as may be~~ maintained  
 7367 by the department ~~with respect~~ pertaining to a delinquent ~~or unruly~~ child committed to  
 7368 the department shall not be public records but shall be privileged records and may be  
 7369 disclosed by direction of the commissioner pursuant to federal law ~~in regard to~~ regarding  
 7370 disseminating juvenile criminal history records only to those persons having a legitimate  
 7371 interest therein; provided, however, that the commissioner shall permit the Council of  
 7372 Juvenile Court Judges to inspect and copy such records for the purposes of obtaining  
 7373 statistics on juveniles.

7374 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) or  
 7375 (d) of Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child has been  
 7376 committed to the department for detention and a diagnostic study for the purpose of  
 7377 determining the most satisfactory plan for ~~the~~ such child's care and treatment has been  
 7378 completed, the department may:

- 7379 (1) Permit ~~the~~ such child liberty under supervision and upon such conditions as the  
 7380 department may believe conducive to acceptable behavior;
- 7381 (2) Order ~~the~~ such child's confinement under such conditions as the department may  
 7382 believe best designed to serve ~~the~~ such child's welfare and as may be in the best interest  
 7383 of the public;
- 7384 (3) Order reconfinement or renewed release as often as conditions indicate to be  
 7385 desirable;
- 7386 (4) Revoke or modify any order of the department affecting ~~the~~ such child, except an  
 7387 order of final discharge, as often as conditions indicate to be desirable; or
- 7388 (5) Discharge ~~the~~ such child from control of the department pursuant to Code Section  
 7389 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied  
 7390 that such discharge will best serve ~~the~~ such child's welfare and the protection of the  
 7391 public.
- 7392 (e.1)(1) When a child who has been adjudicated ~~delinquent~~ for the commission of a class  
 7393 A designated felony act or class B designated felony act as defined in Code Section  
 7394 ~~15-11-63~~ 15-11-2 is released from confinement or custody of the department, it shall be  
 7395 the responsibility of the department to provide notice to any person who was the victim  
 7396 of ~~the~~ such child's ~~delinquent~~ acts that ~~the~~ such child is being released from confinement  
 7397 or custody.
- 7398 (2) ~~As long as a good faith attempt to comply with paragraph (1) of this subsection has~~  
 7399 ~~been made, the~~ The department and employees of the department shall not be liable for  
 7400 damages incurred by reason of the department's failure to provide the notice required by  
 7401 paragraph (1) of this subsection.
- 7402 (3) When a child convicted of a felony offense in a superior court is released from  
 7403 confinement or custody of the department, the department shall provide written notice,  
 7404 including the ~~delinquent act~~ or class A designated felony act or class B designated felony  
 7405 act committed, to the superintendent of the school system in which such child was  
 7406 enrolled or, if the information is known, the school in which such child was enrolled or  
 7407 plans to be enrolled.
- 7408 (4) ~~As long as a good faith attempt to comply with paragraph (3) of this subsection has~~  
 7409 ~~been made, the~~ The department and employees of the department shall not be liable for  
 7410 damages incurred by reason of the department's failure to provide notice required by  
 7411 paragraph (3) of this subsection.
- 7412 (f) As a means of correcting the socially harmful tendencies of a ~~delinquent or unruly~~ child  
 7413 committed to it, the department may:
- 7414 (1) Require participation by ~~youth~~ such child in moral, academic, vocational, physical,  
 7415 and correctional training and activities, and provide ~~youth~~ such child the opportunity for

- 7416 religious activities where practicable in the institutions under the control and supervision  
 7417 of the department;
- 7418 (2) Require such modes of life and conduct as may seem best adapted to fit and equip  
 7419 him or her for return to full liberty without danger to the public;
- 7420 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or
- 7421 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or  
 7422 on a ranch owned by the state or by the United States and require any child so housed to  
 7423 perform suitable conservation and maintenance work, provided that the children shall not  
 7424 be exploited and that the dominant purpose of such activities shall be to benefit and  
 7425 rehabilitate the children rather than to make the camps self-sustaining.
- 7426 (g) When funds are available, the department may:
- 7427 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~  
 7428 children committed to it;
- 7429 (2) Establish and operate additional treatment and training facilities, including parks,  
 7430 forestry camps, maintenance camps, ranches, and group residences necessary to classify  
 7431 and handle juvenile delinquents of different ages and habits and different mental and  
 7432 physical conditions, according to their needs; and
- 7433 (3) Establish ~~parole~~ or aftercare supervision to aid children given conditional release to  
 7434 find homes and employment and otherwise to assist them to become reestablished in the  
 7435 community and to lead socially acceptable lives.
- 7436 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the  
 7437 department is mentally ill or ~~mentally retarded~~ has a developmental disability, as defined  
 7438 in Code Section 15-11-2, the department shall have the power to return such ~~delinquent or~~  
 7439 ~~unruly~~ child to the court of original jurisdiction for appropriate disposition by that court or  
 7440 may, if it so desires, request the court having jurisdiction in the county in which the ~~youth~~  
 7441 ~~development center or other~~ juvenile detention facility is located to take such action as the  
 7442 condition of the child may require.
- 7443 (i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~  
 7444 for detention in a ~~youth development center~~ juvenile detention facility or who has been  
 7445 otherwise taken into custody and who has escaped therefrom or who has been placed  
 7446 under supervision and broken the conditions thereof may be taken into custody without  
 7447 a warrant by a sheriff, deputy sheriff, constable, police officer, probation officer, ~~parole~~  
 7448 ~~officer~~, or any other officer of this state authorized to serve criminal process; upon a  
 7449 written request made by an employee of the department having knowledge of the escape  
 7450 or of the violation of conditions of supervision. Before a child may be taken into custody  
 7451 for violation of the conditions of supervision, ~~the~~ such written request ~~mentioned above~~  
 7452 ~~must~~ shall be reviewed by the commissioner or his or her designee. If the commissioner

7453 or his or her designee finds that probable cause exists to believe that ~~the~~ such child has  
 7454 violated his or her conditions of supervision, he or she may issue an order directing that  
 7455 ~~the~~ such child be picked up and returned to custody.

7456 (2) The commissioner may designate as a peace officer who is authorized to exercise the  
 7457 power of arrest any employee of the department whose full-time duties include the  
 7458 preservation of public order, the protection of life and property, the detection of crime,  
 7459 or the supervision of delinquent ~~and unruly~~ children or children in need of services in its  
 7460 institutions, facilities, or programs, or any employee who is a line supervisor of any such  
 7461 employee. The commissioner also may designate as a peace officer who is authorized  
 7462 to exercise the power of arrest any employee of a person or organization which contracts  
 7463 with the department pertaining to the management, custody, care, and control of  
 7464 delinquent children or children in need of services retained by the person or organization;  
 7465 if that employee's full-time duties include the preservation of public order, the protection  
 7466 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~  
 7467 children in the department's institutions, facilities, or programs, or any employee who is  
 7468 a line supervisor of such employee. The commissioner may designate one or more  
 7469 employees of the department to investigate and apprehend ~~delinquent and unruly~~ children  
 7470 who have escaped from ~~an institution or~~ a juvenile detention facility or who have broken  
 7471 the conditions of supervision; provided, however, that the employees so designated shall  
 7472 only be those with primary responsibility for the security functions of ~~youth development~~  
 7473 ~~centers~~ such facilities or whose primary duty consists of the apprehension of youths who  
 7474 have escaped from such ~~institutions or~~ facilities or who have broken the conditions of  
 7475 supervision. An employee of the department so designated shall have the police power  
 7476 to investigate, to apprehend such children, and to arrest any person physically interfering  
 7477 with the proper apprehension of such children. An employee of the department so  
 7478 designated in the investigative section of the department shall have the power to obtain  
 7479 a search warrant for the purpose of locating and apprehending such children.  
 7480 Additionally, such employee, while on the grounds or in the buildings of the department's  
 7481 institutions or facilities, shall have the same law enforcement powers, including the  
 7482 power of arrest, as a law enforcement officer of the local government with police  
 7483 jurisdiction over such institutions or facilities. Such employee shall be authorized to  
 7484 carry weapons, upon written approval of the commissioner, notwithstanding Code  
 7485 Sections 16-11-126 and 16-11-129. The commissioner shall also be authorized to  
 7486 designate any person or organization with whom the department contracts for services  
 7487 pertaining to the management, custody, care, and control of delinquent ~~and unruly~~  
 7488 children or children in need of services detained by the person or organization as a law  
 7489 enforcement unit under paragraph (7) of Code Section 35-8-2. Any employee or person

7490 designated under this subsection shall be considered to be a peace officer within the  
7491 meaning of Chapter 8 of Title 35 and ~~must~~ shall be certified under that chapter.

7492 (3) For the purposes of investigation of ~~delinquent or unruly~~ children who have escaped  
7493 from ~~institutions or~~ juvenile detention facilities of the department or of ~~delinquent or~~  
7494 ~~unruly~~ children who are alleged to have broken the conditions of supervision, the  
7495 department is empowered and authorized to request and receive from the Georgia Crime  
7496 Information Center, ~~established by Chapter 3 of Title 35,~~ any information in the files of  
7497 the Georgia Crime Information Center which will aid in the apprehension of such  
7498 children.

7499 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child  
7500 into custody without a warrant upon personal knowledge or written request of a person  
7501 having knowledge of the escape or violation of conditions of supervision, or a child may  
7502 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child  
7503 into custody pursuant to this paragraph, a designated employee of the department shall  
7504 have the power to use all force reasonably necessary to take ~~the~~ such child into custody.

7505 (5) The child shall be kept in custody in a suitable place designated by the department  
7506 and there detained until such child may be returned to the custody of the department.

7507 (6) Such taking into custody shall not be termed an arrest; provided, however, that any  
7508 person taking a child into custody pursuant to this subsection shall have the same  
7509 immunity from civil and criminal liability as a peace officer making an arrest pursuant  
7510 to a valid warrant.

7511 (j) The department shall ensure that each ~~delinquent or unruly~~ child it releases under  
7512 supervision or otherwise has suitable clothing, transportation to his or her home or to the  
7513 county in which a suitable home or employment has been found for him or her, and such  
7514 an amount of money as the rules and regulations of the board may authorize. The  
7515 expenditure for clothing and for transportation and the payment of money to a ~~delinquent~~  
7516 ~~or unruly~~ such child released may be made from funds for support and maintenance  
7517 appropriated by the General Assembly to the department or to the institution from which  
7518 such child is released or from local funds.

7519 (k) Every child committed to the department as ~~delinquent or unruly~~, if not already  
7520 discharged, shall be discharged from custody of the department when he or she reaches his  
7521 or her twenty-first birthday.

7522 (l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not  
7523 operate to disqualify such child in any future examination, appointment, or application for  
7524 public service under the government either of the state or of any political subdivision  
7525 thereof.

7526 (m) A commitment to the department shall not be received in evidence or used in any way  
 7527 in any proceedings in any court, except in subsequent proceedings for delinquency or  
 7528 ~~unruliness~~ being in need of services involving the same child and except in imposing  
 7529 sentence in any criminal proceeding against the same person.

7530 (n)(1) The department shall conduct a continuing inquiry into the effectiveness of  
 7531 treatment methods it employs in seeking the rehabilitation of maladjusted children. To  
 7532 this end, the department shall maintain a statistical record of arrests and commitments of  
 7533 its wards subsequent to their discharge from the jurisdiction and control of the department  
 7534 and shall tabulate, analyze, and publish in print or electronically annually these data so  
 7535 that they may be used to evaluate the relative merits of methods of treatment. The  
 7536 department shall cooperate and coordinate with courts, juvenile court clerks, the  
 7537 Governor's Office for Children and Families, and public and private agencies in the  
 7538 collection of statistics and information regarding ~~juvenile delinquency; arrests made;~~  
 7539 ~~complaints, informations, and petitions filed; the disposition made thereof; and other~~  
 7540 ~~information useful in determining the amount and causes of juvenile delinquency in this~~  
 7541 ~~state;~~

7542 (A) Juvenile delinquency;

7543 (B) Arrests made;

7544 (C) Detentions made, the offense for which such detention was authorized, and the  
 7545 reason for each detention;

7546 (D) Complaints filed;

7547 (E) Informations filed;

7548 (F) Petitions filed;

7549 (G) The results of complaints, informations, and petitions, including whether such  
 7550 filings were dismissed, diverted, or adjudicated;

7551 (H) Commitments to the department, the length of such commitment, and releases from  
 7552 the department;

7553 (I) The department's placement decisions for commitments;

7554 (J) Placement decisions to institutions, camps, or other facilities for delinquent children  
 7555 operated under the direction of courts or other local public authorities;

7556 (K) Community programs utilized and completion data for such programs;

7557 (L) Recidivism;

7558 (M) Data collected by juvenile court clerks pursuant to Code Section 15-11-64; and

7559 (N) Other information useful in determining the amount and causes of juvenile  
 7560 delinquency in this state.

7561 (2) In order to facilitate the collection of ~~such~~ the information required by paragraph (1)  
 7562 of this subsection, the department shall be authorized to inspect and copy all records of

7563 the court and law enforcement agencies pertaining to juveniles and collect data from  
7564 juvenile court clerks.

7565 (o) When a child ~~who~~ is committed to the department is under court order to make certain  
7566 restitution as a part of his or her treatment by the court, the requirement that the restitution  
7567 be paid in full shall not cease with the order of commitment. The provision of the order  
7568 requiring restitution shall remain in force and effect during the period of commitment, and  
7569 the department is empowered to enforce ~~said~~ such restitution requirement and to direct that  
7570 payment of funds or notification of service completed be made to the clerk of the juvenile  
7571 court or another employee of that court designated by the judge."

### 7572 SECTION 3-9.

7573 Said chapter is further amended by revising subsections (b) and (e) of Code Section 49-4A-9,  
7574 relating to sentence of youthful offenders, as follows:

7575 "(b) Any final order of judgment by the court in the case of any such child shall be subject  
7576 to such modification from time to time as the court may consider to be for the welfare of  
7577 such child. No commitment of any child to any institution or other custodial agency shall  
7578 deprive the court of jurisdiction to change the form of the commitment or transfer the  
7579 custody of the child to some other institution or agency on such conditions as the court may  
7580 see fit to impose, the duty being constant upon the court to give to all children subject to  
7581 its jurisdiction such oversight and control in the premises as will be conducive to the  
7582 welfare of the child and the best interests of the state; provided, however, that the release  
7583 ~~or parole~~ of any child committed to the department for detention in any of its institutions  
7584 under the terms of this chapter during the period of one year from the date of commitment  
7585 shall be had only with the concurrence and recommendation of the commissioner or the  
7586 commissioner's designated representative; provided, further, that upon releasing ~~or paroling~~  
7587 any child adjudicated for committing a delinquent act for the commission of a class A  
7588 designated felony act or class B designated felony act as defined in Code Section ~~15-11-63~~  
7589 15-11-2 and committed to the department for detention in any of its institutions under the  
7590 terms of this chapter, the department shall provide notice to any person who was the victim  
7591 of the child's delinquent acts that the child is being released ~~or paroled~~. So ~~As~~ long as a  
7592 good faith attempt to comply with the notice requirement of this subsection has been made,  
7593 the department and employees of the department shall not be liable for damages incurred  
7594 by reason of the department's failure to provide the notice required by this subsection."

7595 "(e) Any child under 17 years of age who is sentenced in the superior court and committed  
7596 to the department may be eligible to participate in all ~~youth development center~~ juvenile  
7597 detention facility programs and services including community work programs, sheltered  
7598 workshops, special state sponsored programs for evaluation and services under the Georgia

7599 Vocational Rehabilitation Agency and the Department of Behavioral Health and  
 7600 Developmental Disabilities, and under the general supervision of ~~youth development center~~  
 7601 juvenile detention facility staff at special planned activities outside of the ~~youth~~  
 7602 ~~development center~~ juvenile detention facility. When such a child sentenced in the  
 7603 superior court is approaching his or her seventeenth birthday, the department shall notify  
 7604 the court that a further disposition of the child is necessary. The department shall provide  
 7605 the court with information concerning the participation and progress of the child in  
 7606 programs described in this subsection. The court shall review the case and determine if the  
 7607 child, upon becoming 17 years of age, should be placed on probation, have his or her  
 7608 sentence reduced, be transferred to the Department of Corrections for the remainder of the  
 7609 original sentence, or be subject to any other determination authorized by law."

7610 **SECTION 3-10.**

7611 Said chapter is further amended by revising Code Section 49-4A-10, relating to escape from  
 7612 a youth detention center, petition, and commitment, as follows:

7613 "49-4A-10.

7614 Whenever any child shall escape from any ~~youth detention center~~ juvenile detention  
 7615 facility, the department shall file a petition in the court having jurisdiction and, upon  
 7616 conviction, he or she shall be committed for an additional 12 months in a ~~youth detention~~  
 7617 ~~center~~ juvenile detention facility under the jurisdiction of the department or to another  
 7618 institution under the Department of Corrections."

7619 **SECTION 3-11.**

7620 Said chapter is further amended by revising Code Section 49-4A-11, relating to aiding or  
 7621 encouraging a child to escape and hindering apprehension of a child, as follows:

7622 "49-4A-11.

7623 (a) Any person who shall knowingly aid, assist, or encourage any child ~~or youth~~ who has  
 7624 been committed to the department to escape or to attempt to escape its control or custody  
 7625 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment  
 7626 for not less than one nor more than five years.

7627 (b) Any person who shall knowingly harbor or shelter any child ~~or youth~~ who has escaped  
 7628 the lawful custody or control of the department shall be guilty of a felony and, upon  
 7629 conviction thereof, shall be punished by imprisonment for not less than one nor more than  
 7630 five years.

7631 (c) Any person who shall knowingly hinder the apprehension of any child under the lawful  
 7632 control or custody of the department who has been placed by the department in one of its  
 7633 institutions or facilities and who has escaped therefrom or who has been placed under

7634 supervision and is alleged to have broken the conditions thereof shall be guilty of a felony  
 7635 and, upon conviction thereof, shall be punished by imprisonment for not less than one nor  
 7636 more than five years."

7637 **SECTION 3-12.**

7638 Said chapter is further amended by revising subsection (c) of Code Section 49-4A-16,  
 7639 relating to unlawful crossing or passage of certain items across guard lines and penalty, as  
 7640 follows:

7641 "(c) The provisions of this Code section shall not apply when the commissioner or director  
 7642 of the juvenile detention ~~center or youth development center~~ facility has provided  
 7643 authorization for the introduction of the items listed in subsection (b) of this Code section  
 7644 into such ~~center~~ facility."

7645 **SECTION 3-13.**

7646 Said chapter is further amended by revising Code Section 49-4A-17, relating to introduction  
 7647 of certain items into a juvenile detention center or youth development center prohibited and  
 7648 commerce with incarcerated youth, as follows:

7649 "49-4A-17.

7650 (a)(1) Without the knowledge and consent of the commissioner or the director in charge  
 7651 of any juvenile detention ~~center or youth development center~~ facility, it shall be unlawful  
 7652 for any person to take into or cause to be introduced into such ~~center~~ facility any item  
 7653 which such person has been directed not to take into such center:

7654 (A) Verbally by a staff member of such ~~center~~ facility;

7655 (B) In writing by a staff member of such ~~center~~ facility; or

7656 (C) As directed by the rules, regulations, or policies of such ~~center~~ facility.

7657 (2) Any item taken into a ~~center~~ facility in violation of this subsection shall be deemed  
 7658 contraband and shall be subject to being confiscated and retained as property of the  
 7659 department.

7660 (3) Any person who violates this subsection shall be guilty of a felony and, upon  
 7661 conviction thereof, shall be punished by imprisonment for not less than one year nor more  
 7662 than four years.

7663 (b) It shall be unlawful for any person to trade or traffic with, buy from, or sell any article  
 7664 to a youth child assigned to a juvenile detention ~~center or youth development center~~ facility  
 7665 without the knowledge and consent of the commissioner or the director in charge of such  
 7666 ~~center~~ facility. Any person who violates this subsection shall be guilty of a felony and,  
 7667 upon conviction thereof, shall be punished by imprisonment for not less than one year nor  
 7668 more than four years."

7669

**PART IV**

7670

**CROSS REFERENCES**

7671

**SECTION 4-1.**

7672 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,  
7673 is revised as follows:

7674 "1-2-8.

7675 The law prescribes certain ages at which persons shall be considered of sufficient maturity  
7676 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to  
7677 those ages they are minors and are, on account of that disability, unable to exercise these  
7678 rights as citizens unless such minor becomes emancipated by operation of law or pursuant  
7679 to Article 6 10 of Chapter 11 of Title 15."

7680

**SECTION 4-2.**

7681 Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions,  
7682 or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a)  
7683 as follows:

7684 "(6) From an order, decision, or judgment of a superior court transferring a case to the  
7685 juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-560;"

7686

**SECTION 4-3.**

7687 Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and  
7688 contracts for property or valuable consideration and contracts for necessities, is revised as  
7689 follows:

7690 "13-3-20.

7691 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor  
7692 receives property or other valuable consideration and, after arrival at the age of 18, retains  
7693 possession of such property or continues to enjoy the benefit of such other valuable  
7694 consideration, the minor shall have thereby ratified or affirmed the contract and it shall be  
7695 binding on him or her. Such contractual transaction shall also be binding upon any minor  
7696 who becomes emancipated by operation of law or pursuant to Article 6 10 of Chapter 11  
7697 of Title 15.

7698 (b) The contract of a minor for necessities shall be binding on the minor as if the minor  
7699 were 18 years of age except that the party furnishing them to the minor shall prove that the  
7700 parent or guardian of such minor had failed or refused to supply sufficient necessities for  
7701 the minor, that the minor was emancipated by operation of law, or the minor was  
7702 emancipated pursuant to Article 6 10 of Chapter 11 of Title 15."

**SECTION 4-4.**

7703

7704 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding  
7705 a new Code section to read as follows:

7706 "15-18-6.1.

7707 (a) The district attorney shall be responsible for representing the state in any appeal from  
7708 the juvenile court. Except as provided in subsection (c) of this Code section, the district  
7709 attorney shall be responsible for representing the state in the prosecution of delinquency  
7710 cases in the juvenile court. The district attorney may designate assistant district attorneys,  
7711 investigators, victim and witness assistance personnel, and other employees to assist in  
7712 juvenile court.

7713 (b) In counties with a solicitor-general for the state court, the solicitor-general may, with  
7714 the approval of the district attorney, represent the state in prosecution of juvenile traffic  
7715 offenses and in any delinquency case arising out of the operation of a motor vehicle or a  
7716 watercraft.

7717 (c) If as a result of workload, lack of staff, or other cause the district attorney determines  
7718 that his or her office cannot provide representation for the state in a juvenile court of a  
7719 county, other than for an appeal, the district attorney shall notify in writing the chief judge  
7720 of superior court, the judge or judges of the juvenile court, and the chairperson of the  
7721 county governing authority of such county of such determination. A copy of such notice  
7722 shall be provided to the Prosecuting Attorneys' Council of the State of Georgia. If the  
7723 district attorney determines that his or her office may resume representation in juvenile  
7724 court, he or she shall notify the chief judge of the superior court, the judge or judges of the  
7725 juvenile court, and the chairperson of the county governing authority in writing.

7726 (d) Upon receipt of the notice set forth in subsection (c) of this Code section, the  
7727 governing authority of such county may appoint one or more attorneys to represent the  
7728 state in prosecuting delinquency cases in juvenile court. Such attorney shall be  
7729 compensated in an amount to be fixed by the governing authority of such county. The  
7730 governing authority shall determine and state in writing whether an attorney shall serve on  
7731 a full-time or part-time basis. An attorney appointed to serve on a full-time basis shall not  
7732 engage in the private practice of law. An attorney appointed to serve on a part-time basis  
7733 may engage in the private practice of law, but shall not represent a child charged with  
7734 committing a delinquent act in the juvenile court of the county in which he or she serves  
7735 as part-time prosecutor nor may he or she appear in any matter in which he or she has  
7736 exercised jurisdiction.

7737 (e) An attorney appointed pursuant to subsection (d) of this Code section shall have all of  
7738 the powers, duties, and authority of the district attorney with regard to delinquency cases  
7739 and shall be subject to all laws and rules governing the conduct of prosecuting attorneys

7740 in this state. If such attorney is disqualified from interest or relationship to engage in  
 7741 prosecution, the provisions of Code Section 15-18-5 shall apply."

7742 **SECTION 4-5.**

7743 Said title is further amended by revising subsection (e) of Code Section 15-23-7, relating to  
 7744 collection of additional legal costs in civil actions for purposes of providing court-connected  
 7745 or court-referred alternative dispute resolution programs, as follows:

7746 "(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37  
 7747 may be used for mediation services provided by court programs pursuant to this chapter."

7748 **SECTION 4-6.**

7749 Said title is further amended by revising Code Section 15-23-10, relating to the determination  
 7750 of need as prerequisite to establishment of program, as follows:

7751 "15-23-10.

7752 No alternative dispute resolution program shall be established for any court unless the  
 7753 judge or a majority of the judges of such court determine that there is a need for such  
 7754 program in that court. The funding mechanism set forth in this chapter shall be available  
 7755 to any court, including the juvenile court, which, having determined that a court-annexed  
 7756 or court-referred alternative dispute resolution program would make a positive contribution  
 7757 to the ends of justice in that court, has developed a program meeting the standards of the  
 7758 ~~Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolution Programs~~  
 7759 Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices. Pursuant  
 7760 to the standards set forth in the ~~Georgia Supreme Court's Uniform Rule for Alternative~~  
 7761 ~~Dispute Resolution Programs~~ Supreme Court of Georgia Alternative Dispute Resolution  
 7762 Rules and appendices, the funding mechanism set forth in this chapter shall be available  
 7763 to court programs in which cases are screened by the judge or by the program director  
 7764 under the supervision of the judge on a case-by-case basis to determine whether:

- 7765 (1) The case is appropriate for the process;  
 7766 (2) The parties are able to compensate the neutral if compensation is required; and  
 7767 (3) A need for emergency relief makes referral inappropriate until the request for relief  
 7768 is heard by the court."

7769 **SECTION 4-7.**

7770 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 7771 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,  
 7772 relating to interference with custody, as follows:

7773 "(1) 'Child' means any individual who is under the age of 17 years or any individual who  
 7774 is under the age of 18 years who is alleged to be a ~~deprived dependent~~ child or an ~~unruly~~  
 7775 ~~child~~ a child in need of services as such terms are defined in Code Section 15-11-2."

7776 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody  
 7777 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that  
 7778 custody awarded to a parent, guardian, or other person by a court of competent  
 7779 jurisdiction."

7780 **SECTION 4-8.**

7781 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section  
 7782 16-10-52, relating to escape, as follows:

7783 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,  
 7784 or as a child in need of services subject to lawful custody or lawful confinement,  
 7785 intentionally escapes from lawful custody or from any place of lawful confinement;"

7786 **SECTION 4-9.**

7787 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section  
 7788 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years,  
 7789 as follows:

7790 "(3) In addition to any other act which violates this subsection, a parent or legal guardian  
 7791 shall be deemed to have violated this subsection if such parent or legal guardian furnishes  
 7792 to or permits possession of a pistol or revolver by any minor who has been convicted of  
 7793 a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has  
 7794 been adjudicated for committing a delinquent act under the provisions of Article ~~† 6~~ of  
 7795 Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible  
 7796 misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult."

7797 **SECTION 4-10**

7798 Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating  
 7799 to carrying weapons within school safety zones, at school functions, or on school property,  
 7800 as follows:

7801 "(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be  
 7802 unlawful for any person to carry to or to possess or have under such person's control  
 7803 while within a school safety zone or at a school building, school function, or school  
 7804 property or on a bus or other transportation furnished by the school any weapon or  
 7805 explosive compound, other than fireworks the possession of which is regulated by  
 7806 Chapter 10 of Title 25.

7807 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.  
 7808 Any person who is not a license holder who violates this subsection shall be guilty of a  
 7809 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,  
 7810 by imprisonment for not less than two nor more than ten years, or both.

7811 (3) Any person convicted of a violation of this subsection involving a dangerous weapon  
 7812 or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished  
 7813 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than  
 7814 five nor more than ten years, or both.

7815 (4) A child who violates this subsection may be subject to the provisions of Code Section  
 7816 ~~15-11-63~~ 15-11-601."

7817 **SECTION 4-11.**

7818 Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating  
 7819 to possession of a pistol or revolver by a person under the age of 18 years, as follows:

7820 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18  
 7821 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in  
 7822 Code Section 16-1-3, or who has been adjudicated for committing a delinquent act under  
 7823 the provisions of Article ~~4~~ 6 of Chapter 11 of Title 15 for an offense which would  
 7824 constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3,  
 7825 if such person were an adult."

7826 **SECTION 4-12.**

7827 Said title is further amended by revising paragraph (3) of subsection (a) and subsections (b)  
 7828 and (c) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or  
 7829 deprivation of a minor, as follows:

7830 "(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have  
 7831 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~  
 7832 ~~be a deprived child or an unruly child as such terms are defined in Code Section 15-11-2."~~

7833 "(b) A person commits the offense of contributing to the delinquency, ~~unruliness,~~ or  
 7834 ~~deprivation~~ dependency of a minor or causing a child to be a child in need of services when  
 7835 such person:

7836 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7837 committing a delinquent act;

7838 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7839 committing an act which would cause such minor to be ~~found to be an unruly~~ a child in  
 7840 need of services as such term is defined in Code Section 15-11-2; provided, however, that  
 7841 this paragraph shall not apply to a service provider that notifies the minor's parent,

7842 guardian, or legal custodian of the minor's location and general state of ~~well-being~~  
 7843 well-being as soon as possible but not later than 72 hours after the minor's acceptance of  
 7844 services; provided, further, that such notification shall not be required if:

7845 (A) The service provider has reasonable cause to believe that the minor has been  
 7846 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

7847 (B) The minor will not disclose the name of the minor's parent, guardian, or legal  
 7848 custodian, and the Division of Family and Children Services within the Department of  
 7849 Human Services is notified within 72 hours of the minor's acceptance of services; or

7850 (C) The minor's parent, guardian, or legal custodian cannot be reached, and the  
 7851 Division of Family and Children Services within the Department of Human Services  
 7852 is notified within 72 hours of the minor's acceptance of services;

7853 (3) Willfully commits an act or acts or willfully fails to act when such act or omission  
 7854 would cause a minor to be ~~found~~ adjudicated to be a ~~deprived~~ dependent child as such  
 7855 term is defined in Code Section 15-11-2;

7856 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7857 encourages, abets, or directs any minor to commit any felony which encompasses force  
 7858 or violence as an element of the offense or delinquent act which would constitute a felony  
 7859 which encompasses force or violence as an element of the offense if committed by an  
 7860 adult;

7861 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)  
 7862 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section  
 7863 16-11-121 to commit any felony which encompasses force or violence as an element of  
 7864 the offense or delinquent act which would constitute a felony which encompasses force  
 7865 or violence as an element of the offense if committed by an adult; or

7866 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7867 encourages, abets, or directs any minor to commit any smash and grab burglary which  
 7868 would constitute a felony if committed by an adult.

7869 (c) It shall not be a defense to the offense provided for in this Code section that the minor  
 7870 has not been formally adjudged to have committed a delinquent act or has not been ~~found~~  
 7871 adjudged to be ~~unruly or deprived~~ a dependent child or a child in need of services."

7872 **SECTION 4-13.**

7873 Said title is further amended by revising subsections (c), (e), and (g) of Code Section  
 7874 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7875 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known  
 7876 as the Department of Public Health for these purposes) shall prepare a reporting form for  
 7877 physicians which shall include:

7878 (1) The number of females whose parent or guardian was provided the notice required  
7879 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician  
7880 or such physician's agent; of that number, the number of notices provided personally  
7881 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and  
7882 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section  
7883 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the  
7884 best of the reporting physician's information and belief, went on to obtain the abortion;

7885 (2) The number of females upon whom the physician performed an abortion without  
7886 providing to the parent or guardian of a minor the notice required by subsection (a) of  
7887 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which  
7888 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~  
7889 15-11-686 were applicable;

7890 (3) The number of abortions performed upon a female by the physician after receiving  
7891 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682  
7892 and Code Section ~~15-11-114~~ 15-11-684; and

7893 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with  
7894 respect to females for whom a guardian or conservator has been appointed."

7895 "(e) By February 28 of each year following a calendar year in any part of which this  
7896 subsection was in effect, each physician who provided, or whose agent provided, the notice  
7897 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who  
7898 knowingly performed an abortion upon a female or upon a female for whom a guardian or  
7899 conservator had been appointed because of a finding of incompetency during the previous  
7900 calendar year shall submit to the Department of Public Health a copy of the form described  
7901 in subsection (c) of this Code section with the requested data entered accurately and  
7902 completely."

7903 "(g) By June 30 of each year, the Department of Public Health shall issue a public report  
7904 providing statistics for the previous calendar year compiled from all the reports covering  
7905 that year submitted in accordance with this Code section for each of the items listed in  
7906 subsection (c) of this Code section. The report shall also include statistics which shall be  
7907 obtained by the Administrative Office of the Courts giving the total number of petitions or  
7908 motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that  
7909 number, the number in which the court appointed a guardian ad litem, the number in which  
7910 the court appointed counsel, the number in which the judge issued an order authorizing an  
7911 abortion without notification, the number in which the judge denied such an order, and, of  
7912 the last, the number of denials from which an appeal was filed, the number of such appeals  
7913 that resulted in the denials being affirmed, and the number of such appeals that resulted in  
7914 reversals of such denials. Each report shall also provide the statistics for all previous

7915 calendar years for which such a public statistical report was required to be issued, adjusted  
 7916 to reflect any additional information from late or corrected reports. The Department of  
 7917 Public Health shall ensure that none of the information included in the public reports could  
 7918 reasonably lead to the identification of any individual female or of any female for whom  
 7919 a guardian or conservator has been appointed."

7920 **SECTION 4-14.**

7921 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 7922 amended by revising Code Section 17-4-25.1, relating to the transport of an arrested person  
 7923 to a jurisdiction in which an offense was committed and transport of prisoner outside a  
 7924 county or municipality, as follows:

7925 "17-4-25.1.

7926 (a) As provided in subsection (e) of this Code section, a sworn law enforcement officer  
 7927 from a county or municipality in which an offense is alleged to have been committed shall  
 7928 be authorized to transport an arrested person, with the warrant under which such person  
 7929 was arrested, from one jurisdiction to the county or municipality in which the offense is  
 7930 alleged to have been committed for examination before any judicial officer of that county  
 7931 or municipality.

7932 (b) Unless otherwise provided by contract, the agency ~~transporting~~ requesting the  
 7933 transportation of the arrested person pursuant to subsection (a) of this Code section shall  
 7934 be responsible for all costs associated with the transport. Such officer may hold or  
 7935 imprison the arrested person in a jurisdiction other than where the offense is alleged to have  
 7936 been committed long enough to enable such officer to prepare to take the arrested person  
 7937 to the jurisdiction in which the offense is alleged to have been committed.

7938 (c) A sworn law enforcement officer from a county or municipality shall be authorized to  
 7939 transport a prisoner who is lawfully in the custody of such officer to a medical facility,  
 7940 ~~youth development center~~ juvenile detention facility as defined in Code Section 49-4A-1,  
 7941 or court appearance outside such county or municipality or to transport such prisoner to a  
 7942 location outside such county or municipality for any lawfully required or necessary  
 7943 purpose.

7944 (d) This Code section shall not be construed to provide any general state-wide police  
 7945 powers or authority for county or municipal law enforcement officers or expand the arrest  
 7946 powers of such officers outside their properly authorized jurisdiction.

7947 (e) Sheriffs and, with the approval of its governing authority, municipal or other law  
 7948 enforcement agency heads are authorized to enter into a contract for the purposes of  
 7949 transporting arrested individuals from the jurisdiction of the arrest to an appropriate  
 7950 detention facility where the alleged crime is to have occurred. In the absence of a written

7951 contract between the sheriff and municipal or other law enforcement agency head, the  
 7952 sheriff or his or her designee has the right of first refusal, as evidenced in writing, of  
 7953 transporting persons arrested on a warrant to an appropriate detention facility where the  
 7954 crime is alleged to have occurred. Any responsibility arising as a result of the  
 7955 transportation of an arrested individual as authorized in this Code section shall be that of  
 7956 the agency whose employee is transporting the arrested individual."

7957 **SECTION 4-15.**

7958 Said title is further amended by revising subsection (a) of Code Section 17-7-50.1, relating  
 7959 to time for presentment of child's case to a grand jury, as follows:

7960 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior  
 7961 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is  
 7962 detained shall within 180 days of the date of detention be entitled to have the charge  
 7963 against him or her presented to the grand jury. The superior court shall, upon motion for  
 7964 an extension of time and after a hearing and good cause shown, grant one extension to the  
 7965 original 180 day period, not to exceed 90 additional days."

7966 **SECTION 4-16.**

7967 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
 7968 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as  
 7969 follows:

7970 "(1) 'Child' means an accused person under the jurisdiction of the superior court pursuant  
 7971 to Code Section ~~15-11-28~~ 15-11-560."

7972 **SECTION 4-17.**

7973 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to  
 7974 fixing of sentence, as follows:

7975 "(e) In any case involving a felony in which the defendant previously appeared before a  
 7976 juvenile court, the records of the dispositions of the defendant as well as any evidence used  
 7977 in any juvenile court hearing shall be available to the district attorney, the defendant, and  
 7978 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~  
 7979 15-11-703."

7980 **SECTION 4-18.**

7981 Said title is further amended by revising Code Section 17-10-14, relating to committal of  
 7982 person under 17 convicted of a felony, as follows:

7983 "17-10-14.

7984 (a) Notwithstanding any other provisions of this article and except as otherwise provided  
 7985 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person  
 7986 under the age of 17 years is convicted of a felony and sentenced as an adult to life  
 7987 imprisonment or to a certain term of imprisonment, such person shall be committed to the  
 7988 Department of Juvenile Justice to serve such sentence in a detention center of such  
 7989 department until such person is 17 years of age at which time such person shall be  
 7990 transferred to the Department of Corrections to serve the remainder of the sentence. This  
 7991 Code section shall apply to any person convicted on or after July 1, 1987, and to any person  
 7992 convicted prior to such date who has not been committed to an institution operated by the  
 7993 Department of Corrections.

7994 (b) If a child is transferred to superior court according to subsection (b) of Code Section  
 7995 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title  
 7996 16, the court may sentence such child to the Department of Corrections. Such child shall  
 7997 be housed in a designated youth confinement unit until such person is 17 years of age, at  
 7998 which time such person may be housed in any other unit designated by the Department of  
 7999 Corrections.

8000 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~  
 8001 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~  
 8002 ~~custody of the Department of Corrections and shall be housed in a designated youth~~  
 8003 ~~confinement unit until such person is 17 years of age, at which time such person may be~~  
 8004 ~~housed in any other unit designated by the Department of Corrections."~~

8005 **SECTION 4-19.**

8006 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to  
 8007 definitions regarding restitution, as follows:

8008 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2)~~ of  
 8009 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1)~~ of Code Section  
 8010 15-11-2, or the legal guardian. Such term shall not include a foster parent."

8011 **SECTION 4-20.**

8012 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating  
 8013 to debt to state created, as follows:

8014 "(d) When a child is adjudicated for committing a delinquent act in a juvenile court  
 8015 proceeding involving a crime upon which a claim under this chapter can be made, the  
 8016 juvenile court in its discretion may order that the child pay the debt to the state as an adult  
 8017 would have to pay had an adult committed the crime. Any assessments so ordered may be

8018 made a condition of probation as provided in ~~paragraph (2) of subsection (a) of Code~~  
 8019 ~~Section 15-11-66~~ 15-11-601."

8020 **SECTION 4-21.**

8021 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to  
 8022 applicability of rules of discovery, as follows:

8023 "(c) This article shall be deemed to have been automatically invoked, without the written  
 8024 notice provided for in subsection (a) of this Code section, when a defendant has sought  
 8025 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to  
 8026 ~~Code Section 15-11-75~~ Part 8 of Article 6 of Chapter 11 of Title 15, or pursuant to the  
 8027 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the  
 8028 same as the discovery material that may be provided under this article when a written  
 8029 notice is filed pursuant to subsection (a) of this Code section."

8030 **SECTION 4-22.**

8031 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is  
 8032 amended in subsection (b) of Code Section 19-7-1, relating to in whom parental power lies  
 8033 and how such power is lost, by deleting "or" at the end of paragraph (5), by replacing the  
 8034 period with a semicolon at the end of paragraph (6), and by adding two new paragraphs to  
 8035 read as follows:

8036 "(7) A superior court order terminating parental rights in an adoption proceeding in  
 8037 accordance with Chapter 8 of this title; or

8038 (8) A superior court order terminating parental rights of the legal father or the biological  
 8039 father who is not the legal father of the child in a petition for legitimation, a petition to  
 8040 establish paternity, a divorce proceeding, or a custody proceeding pursuant to this chapter  
 8041 or Chapter 6, 8, or 9 of this title, provided that such termination is in the best interest of  
 8042 such child; and provided, further, that this paragraph shall not apply to such termination  
 8043 when a child has been adopted or is conceived by artificial insemination as set forth in  
 8044 Code Section 19-7-21 or when an embryo is adopted as set forth in Article 2 of Chapter  
 8045 8 of this title."

8046 **SECTION 4-23.**

8047 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section  
 8048 19-7-5, relating to reporting of child abuse, as follows:

8049 "(1) 'Abortion' shall have the same meaning as set forth in Code Section ~~15-11-111~~  
 8050 15-11-681."

8051 **SECTION 4-24.**

8052 Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to  
8053 petition for legitimation of a child, as follows:

8054 "(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~  
8055 Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~  
8056 dependency proceeding regarding the child is pending."

8057 **SECTION 4-25.**

8058 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section  
8059 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

8060 "(4) Parent has failed to exercise proper parental care or control due to misconduct or  
8061 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code  
8062 Section ~~15-11-94~~ 15-11-310,"

8063 **SECTION 4-26.**

8064 Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11,  
8065 relating to petitioning superior court to terminate parental rights, as follows:

8066 "(D) Parent has failed to exercise proper parental care or control due to misconduct or  
8067 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code  
8068 Section ~~15-11-94~~ 15-11-310,"

8069 **SECTION 4-27.**

8070 Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to  
8071 petition for adoption, as follows:

8072 "(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code  
8073 section which require obtaining and attaching a written voluntary surrender and  
8074 acknowledgment thereof and affidavits of the legal mother and a representative of the  
8075 petitioner, ~~where~~ when the adoption is sought under subsection (a) of Code Section 19-8-5  
8076 or 19-8-7 following the termination of parental rights and the placement of the child by the  
8077 juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~  
8078 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating  
8079 parental rights of the parent shall take the place of obtaining and attaching those otherwise  
8080 required surrenders, acknowledgments, and affidavits."

8081 **SECTION 4-28.**

8082 Said title is further amended by revising Code Section 19-10A-4, relating to no criminal  
8083 prosecution for leaving a child in the custody of a medical facility, as follows:

8084 "19-10A-4.

8085 A mother shall not be prosecuted for ~~the crimes of cruelty to a child, violating Code~~  
 8086 ~~Section 16-5-70, contributing to the delinquency, unruliness, or deprivation of a child,~~  
 8087 ~~Code Section 16-12-1; or abandonment of a dependent child, or Code Section 19-10-1;~~  
 8088 because of the act of leaving her newborn child in the physical custody of an employee,  
 8089 agent, or member of the staff of a medical facility who is on duty, whether there in a paid  
 8090 or volunteer position, provided that the newborn child is no more than one week old and  
 8091 the mother shows proof of her identity, if available, to the person with whom the newborn  
 8092 is left and provides her name and address."

8093 **SECTION 4-29.**

8094 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement  
 8095 of medical costs, as follows:

8096 "19-10A-6.

8097 A medical facility which accepts for inpatient admission a child left pursuant to Code  
 8098 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all  
 8099 reasonable medical and other reasonable costs associated with the child prior to the child  
 8100 being placed in the care of the department. A medical facility shall notify the Department  
 8101 of Human Services at such time as the child is left and at the time the child is medically  
 8102 ready for discharge. Upon notification that the child is medically ready for discharge, the  
 8103 Department of Human Services shall take physical custody of the child within six hours.  
 8104 The Department of Human Services upon taking physical custody shall promptly bring the  
 8105 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

8106 **SECTION 4-30.**

8107 Said title is further amended by revising Code Section 19-13-20, relating to definitions  
 8108 regarding family violence shelters, as follows:

8109 "(5) 'Family violence shelter' means a facility approved by the department for the purpose  
 8110 of receiving, on a temporary basis, persons who are subject to family violence. Family  
 8111 violence shelters are distinguished from shelters operated for detention or placement of  
 8112 children only, as provided in subsection (c) of Code Section 15-11-135 and subsection (a)  
 8113 of Code Section ~~15-11-48~~ 15-11-504."

8114 **SECTION 4-31.**

8115 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 8116 revising paragraph (3) of Code Section 20-1A-30, relating to definitions for background  
 8117 checks, as follows:

8118 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~  
 8119 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~  
 8120 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~  
 8121 ~~to sexual offenses~~; a violation of Code Section 16-4-1, ~~relating to criminal attempt~~ when  
 8122 the crime attempted is any of the crimes specified by this paragraph; or any other offenses  
 8123 committed in another jurisdiction which, if committed in this state, would be one of the  
 8124 enumerated crimes listed in this paragraph."

#### 8125 SECTION 4-32.

8126 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section  
 8127 20-2-133, relating to free public instruction, exceptions, eligibility, custody of child,  
 8128 notification of local unit of administration of child's location, transfer and utilization of  
 8129 records, and funding, as follows:

8130 "(b)(1) Any child, except a child in a ~~youth development center~~ secure residential facility  
 8131 as defined in Code Section 15-11-2, as specifically provided in this paragraph, who is in  
 8132 the physical or legal custody of the Department of Juvenile Justice or the Department of  
 8133 Human Services, ~~or~~; in a placement operated by the Department of Human Services or  
 8134 the Department of Behavioral Health and Developmental Disabilities; ~~;~~ or in a facility or  
 8135 placement paid for by the Department of Juvenile Justice, the Department of Human  
 8136 Services or any of its divisions, or the Department of Behavioral Health and  
 8137 Developmental Disabilities and who is physically present within the geographical area  
 8138 served by a local unit of administration for any length of time is eligible for enrollment  
 8139 in the educational programs of that local unit of administration; provided, however, that  
 8140 the child meets the age eligibility requirements established by this article. The local unit  
 8141 of administration of the school district in which such child is present shall be responsible  
 8142 for the provision of all educational programs, including special education and related  
 8143 services, at no charge ~~as~~ so long as the child is physically present in the school district.  
 8144 A child ~~will~~ shall be considered in the physical or legal custody of the Department of  
 8145 Juvenile Justice or the Department of Human Services or any of its divisions if custody  
 8146 has been awarded either temporarily or permanently by court order or by voluntary  
 8147 agreement, or if the child has been admitted or placed according to an individualized  
 8148 treatment or service plan of the Department of Human Services. A child ~~will~~ shall be  
 8149 considered in a facility or placement paid for or operated by the Department of  
 8150 Behavioral Health and Developmental Disabilities if the child has been admitted or  
 8151 placed according to an individualized treatment or service plan of the Department of  
 8152 Behavioral Health and Developmental Disabilities. No child in a ~~youth development~~  
 8153 ~~center~~ secure residential facility as defined in Code Section 15-11-2, regardless of his or

8154 her custody status, shall be eligible for enrollment in the educational programs of the  
 8155 local unit of administration of the school district in which ~~that youth development center~~  
 8156 such facility is located. No child or youth in the custody of the Department of  
 8157 Corrections or the Department of Juvenile Justice and confined in a facility as a result of  
 8158 a sentence imposed by a court shall be eligible for enrollment in the educational programs  
 8159 of the local unit of administration of the school district where such child or youth is being  
 8160 held."

8161 **SECTION 4-33.**

8162 Said title is further amended by revising subsection (b) of Code Section 20-2-670, relating  
 8163 to requirements for transferring students beyond sixth grade, as follows:

8164 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a  
 8165 transferring student may be admitted on a conditional basis if he or she and his or her  
 8166 parent or legal guardian ~~executes~~ execute a document providing the name and address of  
 8167 the school last attended and authorizing the release of all academic and disciplinary records  
 8168 to the school administration. The parent or guardian shall be notified of the transfer of such  
 8169 records and shall, upon written request made within ten days of such notice, be entitled to  
 8170 receive a copy of such records. Within five days of the receipt of a copy of such records,  
 8171 the parent or guardian may make a written request for and shall be entitled to a hearing  
 8172 before the principal of the school or his or her designee which is the custodian of such  
 8173 records for the purpose of challenging the content of the records. The student or his or her  
 8174 parent or legal guardian shall also disclose on the same document as the release whether  
 8175 the child has ever been adjudicated guilty of the commission of a class A designated felony  
 8176 act or class B designated felony act, as defined in Code Section ~~15-11-63~~ 15-11-2 and, if  
 8177 so, the date of such adjudication, the offense committed, the jurisdiction in which such  
 8178 adjudication was made, and the sentence imposed. Any form document to authorize the  
 8179 release of records which is provided by a school to a transferring student or such student's  
 8180 parent or legal guardian shall include a list of class A designated felony acts or class B  
 8181 designated felony acts. The student or his or her parent or legal guardian shall also disclose  
 8182 on the document whether the student is currently serving a suspension or expulsion from  
 8183 another school, the reason for such discipline, and the term of such discipline. If a student  
 8184 so conditionally admitted is found to be ineligible for enrollment pursuant to the provisions  
 8185 of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be  
 8186 dismissed from enrollment until such time as he or she becomes so eligible."

**SECTION 4-34.**

8187  
8188 Said title is further amended by revising Code Section 20-2-671, relating to transfer students  
8189 who have committed felony acts, as follows:

8190 "20-2-671.

8191 If any school administrator determines from the information obtained pursuant to Code  
8192 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has  
8193 committed a class A designated felony act or class B designated felony act, as defined in  
8194 Code Section 15-11-2, such administrator shall so inform all teachers to whom the student  
8195 is assigned that they may review the information in the student's file provided pursuant to  
8196 subsection (b) of Code Section 20-2-670 received from other schools or from the juvenile  
8197 courts. Such information shall be kept confidential."

**SECTION 4-35.**

8198  
8199 Said title is further amended by revising paragraphs (5) and (14) of subsection (c) and  
8200 subsection (g) of Code Section 20-2-690.2, relating to establishment of student attendance  
8201 protocol committee, membership and protocol, summary of penalties for failure to comply,  
8202 and reporting, as follows:

8203 "(5) The Department of Juvenile Justice, which may include representatives from area  
8204 ~~youth detention centers or regional youth detention centers~~ juvenile detention facilities  
8205 as defined in Code Section 49-4A-1;"

8206 "(14) The court approved community based risk reduction program established by the  
8207 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has  
8208 been established."

8209 "(g) The committee shall write the summary of possible consequences and penalties for  
8210 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children  
8211 and their parents, guardians, or other persons who have control or charge of children for  
8212 distribution by schools in accordance with Code Section 20-2-690.1. The summary of  
8213 possible consequences for children shall include possible dispositions for ~~unruly~~ unruly children  
8214 in need of services and possible denial or suspension of a driver's license for a child in  
8215 accordance with Code Section 40-5-22."

**SECTION 4-36.**

8216  
8217 Said title is further amended by revising Code Section 20-2-699, relating to the disposition  
8218 of children taken into custody, as follows:

8219 "20-2-699.

8220 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698  
8221 shall immediately deliver the child either to the parent, guardian, or other person having

8222 control or charge of the child or to the school from which the child is absent, or if the child  
 8223 is found to have been adjudged a delinquent ~~or unruly, he~~ child or a child in need of  
 8224 services, the person shall cause the child to be brought before the probation officer of the  
 8225 county having jurisdiction over such child."

8226 **SECTION 4-37.**

8227 Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating  
 8228 to students subject to disciplinary orders of other school systems, as follows:

8229 "(d) If any school administrator determines from the information obtained pursuant to this  
 8230 Code section or from Code Section ~~15-11-28 or 15-11-80~~ 15-11-599, 15-11-602, or  
 8231 15-11-707 that a student has been convicted of or has been adjudicated to have committed  
 8232 an offense which is a class A designated felony act ~~or class B designated felony act~~ under  
 8233 Code Section ~~15-11-63~~ 15-11-2, such administrator shall so inform all teachers to whom  
 8234 the student is assigned and other school personnel to whom the student is assigned. Such  
 8235 teachers and other certificated professional personnel as the administrator deems  
 8236 appropriate may review the information in the student's file provided pursuant to this Code  
 8237 section that has been received from other schools or from the juvenile courts or superior  
 8238 courts. Such information shall be kept confidential."

8239 **SECTION 4-38.**

8240 Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding  
 8241 against parents for failure to cooperate in educational programs, as follows:

8242 "20-2-766.1.

8243 The local board of education may, by petition to the juvenile court, proceed against a parent  
 8244 or guardian as provided in this Code section. If the court finds that the parent or guardian  
 8245 has willfully and unreasonably failed to attend a conference requested by a principal  
 8246 pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian  
 8247 to attend such a conference, order the parent or guardian to participate in such programs  
 8248 or such treatment as the court deems appropriate to improve the student's behavior, or both.  
 8249 After notice and opportunity for hearing, the court may impose a fine, not to exceed  
 8250 \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under  
 8251 this Code section. The court may use its contempt and other powers specified in Code  
 8252 Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

8253 **SECTION 4-39.**

8254 Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating  
 8255 to expulsion or suspension of students for felonies, as follows:

8256 "(a) Each local board of education is authorized to refuse to readmit or enroll any student  
 8257 who has been suspended or expelled for being convicted of, being adjudicated to have  
 8258 committed, being indicted for, or having information filed for the commission of any  
 8259 felony or any delinquent act under Code ~~Section 15-11-28~~ Sections 15-11-602 and  
 8260 15-11-707 which would be a felony if committed by an adult. If refused readmission or  
 8261 enrollment, the student or the student's parent or legal guardian has the right to request a  
 8262 hearing pursuant to the procedures provided for in Code Section 20-2-754."

8263 **SECTION 4-40.**

8264 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section  
 8265 20-3-660, relating to program of grants for foster children created, as follows:

8266 "(B) The student is currently committed to the Division of Family and Children  
 8267 Services within the Department of Human Services under Code Section ~~15-11-55~~  
 8268 15-11-212 and placed in a family foster home or is placed in accordance with  
 8269 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

8270 **SECTION 4-41.**

8271 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by  
 8272 revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:

8273 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all  
 8274 proceedings involving ~~deprivation~~ dependency as defined by Code Section 15-11-2 and in  
 8275 all criminal proceedings in which a child was a victim of or witness to any crime, the child  
 8276 shall be competent to testify, and the child's credibility shall be determined as provided in  
 8277 this chapter."

8278 **SECTION 4-42.**

8279 Said title is further amended by revising subsection (q) of Code Section 24-12-21, relating  
 8280 to disclosure of AIDS confidential information, as follows:

8281 "(q) A public safety agency or prosecuting attorney may obtain the results from an HIV  
 8282 test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~  
 8283 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be  
 8284 contained in a sealed record."

8285 **SECTION 4-43.**

8286 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and  
 8287 reports of positive results, is amended by revising subsection (c) as follows:

8288 "(c) Unless exempted under this Code section, each health care provider who orders an  
 8289 HIV test for any person shall do so only after counseling the person to be tested. Unless  
 8290 exempted under this subsection, the person to be tested shall have the opportunity to refuse  
 8291 the test. The provisions of this subsection shall not be required if the person is required to  
 8292 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,  
 8293 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not  
 8294 be required if the person is a minor or incompetent and the parent or guardian thereof  
 8295 permits the test after compliance with this subsection. The provisions of this subsection  
 8296 shall not be required if the person is unconscious, temporarily incompetent, or comatose  
 8297 and the next of kin permits the test after compliance with this subsection. The provisions  
 8298 of this subsection shall not apply to emergency or life-threatening situations. The  
 8299 provisions of this subsection shall not apply if the physician ordering the test is of the  
 8300 opinion that the person to be tested is in such a medical or emotional state that disclosure  
 8301 of the test would be injurious to the person's health. The provisions of this subsection shall  
 8302 only be required prior to drawing the body fluids required for the HIV test and shall not be  
 8303 required for each test performed upon that fluid sample."

8304 **SECTION 4-44.**

8305 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
 8306 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers  
 8307 and duties of the Georgia Crime Information Center, as follows:

8308 "(c) The provisions of this article notwithstanding, information and records of children  
 8309 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and  
 8310 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according  
 8311 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~  
 8312 15-11-709."

8313 **SECTION 4-45.**

8314 Said title is further amended by revising subparagraph (B) of paragraph (7) and  
 8315 subparagraphs (B) and (B.1) of paragraph (8) of Code Section 35-8-2, relating to definitions  
 8316 regarding peace officers, as follows:

8317 "(B) The Office of Permits and Enforcement of the Department of Transportation, the  
 8318 Department of Juvenile Justice and its institutions and facilities for the purpose of  
 8319 personnel who are authorized to exercise the power of arrest and who are employed or  
 8320 appointed by ~~said~~ such department or institutions, and the office or section in the  
 8321 Department of Juvenile Justice in which persons are assigned who have been  
 8322 designated by the commissioner to investigate and apprehend ~~unruly and~~ delinquent

8323 children and any child with a pending juvenile court case alleging the child to be a child  
 8324 in need of services; and"

8325 "(B) An enforcement officer who is employed by the Department of Transportation in  
 8326 its Office of Permits and Enforcement and any person employed by the Department of  
 8327 Juvenile Justice who is designated by the commissioner to investigate and apprehend  
 8328 ~~unruly~~ and delinquent children and any child with a pending juvenile court case  
 8329 alleging the child to be a child in need of services;

8330 (B.1) Personnel who are authorized to exercise the power of arrest, who are employed  
 8331 or appointed by the Department of Juvenile Justice, and whose full-time duties include  
 8332 the preservation of public order, the protection of life and property, the detection of  
 8333 crime, or the supervision of delinquent ~~and unruly~~ children in the department's  
 8334 institutions, facilities, or programs;"

8335 **SECTION 4-46.**

8336 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction  
 8337 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:  
 8338 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the  
 8339 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

8340 **SECTION 4-47.**

8341 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 8342 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of  
 8343 licenses by operation of law, as follows:

8344 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as  
 8345 provided in subsection (c) of this Code section, an adjudication of a minor child as a  
 8346 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code  
 8347 section shall be deemed a conviction for purposes of this Code section."

8348 **SECTION 4-48.**

8349 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating  
 8350 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

8351 "(l) A person who violates this Code section while transporting in a motor vehicle a child  
 8352 under the age of 14 years is guilty of the separate offense of endangering a child by driving  
 8353 under the influence of alcohol or drugs. The offense of endangering a child by driving  
 8354 under the influence of alcohol or drugs shall not be merged with the offense of driving  
 8355 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An  
 8356 offender who is convicted of a violation of this subsection shall be punished in accordance

8357 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~  
 8358 ~~contributing to the delinquency, unruliness, or deprivation of a child."~~

8359 **SECTION 4-49.**

8360 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and  
 8361 ratification of conveyance to or by a minor, is revised as follows:

8362 "44-5-41.

8363 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or  
 8364 interest in property to or by a minor is voidable unless such minor has become emancipated  
 8365 by operation of law or pursuant to Article 6 10 of Chapter 11 of Title 15. If a minor has  
 8366 conveyed property or an interest in property, the minor may void the conveyance upon  
 8367 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will  
 8368 void the first conveyance without reentry or repossession. If property or an interest in  
 8369 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains  
 8370 the possession or benefit of the property or interest in property, the minor shall have  
 8371 thereby ratified or affirmed the conveyance."

8372 **SECTION 4-50.**

8373 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 8374 is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions  
 8375 regarding certain indemnification, as follows:

8376 "(7) 'Law enforcement officer' means any agent or officer of this state, a political  
 8377 subdivision or municipality of this state, or an authority of this state or a political  
 8378 subdivision of this state who, as a full-time or part-time employee, is vested either  
 8379 expressly by law or by virtue of public employment or service with authority to enforce  
 8380 the criminal or traffic laws with the power of arrest and whose duties include the  
 8381 preservation of public order, the protection of life and property, or the prevention,  
 8382 detection, or investigation of crime. Such term also includes the employees designated  
 8383 by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant  
 8384 to paragraph (2) of subsection (i) of Code Section 49-4A-8, ~~which employees who~~ have  
 8385 the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with  
 8386 a pending juvenile court case alleging the child to be a child in need of services who have  
 8387 has escaped from a facility under the jurisdiction of the Department of Juvenile Justice  
 8388 or who ~~have~~ has broken the conditions of supervision. Such term also includes members  
 8389 of the Georgia National Guard, the composition of which is set forth in Code Section  
 8390 38-2-3, who have been called into active state service by the Governor."

**SECTION 4-51.**

8391  
8392 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating  
8393 to definitions regarding certain compensation, as follows:

8394 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political  
8395 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
8396 either expressly by law or by virtue of public employment or service with authority to  
8397 enforce the criminal or traffic laws and whose duties include the preservation of public  
8398 order, the protection of life and property, or the prevention, detection, or investigation of  
8399 crime. Such term also includes the employees designated by the commissioner of  
8400 juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of  
8401 subsection (i) of Code Section 49-4A-8, ~~which employees~~ who have the duty to  
8402 investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending  
8403 juvenile court case alleging the child to be a child in need of services who ~~have~~ has  
8404 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or  
8405 who ~~have~~ has broken the conditions of supervision. Such term also includes members  
8406 of the Georgia National Guard, the composition of which is set forth in Code Section  
8407 38-2-3, who have been called into active state service by the Governor."

**SECTION 4-52.**

8408  
8409 Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to  
8410 purposes and principles of personnel administration, as follows:

8411 "(a) It is the purpose of this article to establish in the state a system of personnel  
8412 administration which will attract, select, and retain the best employees based on merit, free  
8413 from coercive political influences, with incentives in the form of equal opportunities for  
8414 all; which will provide technically competent and loyal personnel to render impartial  
8415 service to the public at all times and to render such service according to the dictates of  
8416 ethics and morality; and which will remove unnecessary and inefficient employees. It is  
8417 specifically the intent of the General Assembly to promote this purpose by allowing  
8418 agencies greater flexibility in personnel management so as to promote the overall  
8419 effectiveness and efficiency of state government. To this end, and in accordance with Code  
8420 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in  
8421 the unclassified service as defined in this article, except as provided in Code Section  
8422 ~~15-11-24.3~~ 15-11-69. It is also specifically the intent of the General Assembly that  
8423 employees in the classified service prior to July 1, 1996, shall continue to be employees in  
8424 the classified service so long as they remain in classified positions or as otherwise provided  
8425 by law. It is further specifically the intent of the General Assembly that state government  
8426 operate within a framework of consistent core personnel policies and practices across all

8427 state agencies and entities and that the state's most valued resource, its employees, be  
8428 managed in a manner to promote work force productivity and sound business practices."

8429 **SECTION 4-53.**

8430 Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to  
8431 composition of classified and unclassified service, as follows:

8432 "(a) Any officer or employee who occupied a classified position under the State Personnel  
8433 Administration prior to July 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-69  
8434 shall remain in the classified service so long as such officer or employee shall remain in  
8435 a classified position or as otherwise provided by law. Employees in the classified service  
8436 shall have, upon completing a working test period, appeal rights as provided in Code  
8437 Sections 45-20-8 and 45-20-9."

8438 **SECTION 4-54.**

8439 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
8440 by revising paragraphs (3), (5), (12), and (16) of Code Section 49-5-3, relating to definitions  
8441 regarding services for children and youth, as follows:

8442 "(3) 'Child welfare and youth services' means duties and functions authorized or required  
8443 by this article to be provided by the department with respect to:

8444 (A) Establishment and enforcement of standards for social services and facilities for  
8445 children and youths which supplement or substitute for parental care and supervision  
8446 for the purpose of preventing or remedying or assisting in the solution of problems  
8447 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8448 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8449 (C) Protecting and promoting the welfare of children of working mothers;

8450 (D) Providing social services to children and youths and their parents and care for  
8451 children and youths born out of wedlock and their mothers;

8452 (E) Promotion of coordination and cooperation among organizations, agencies, and  
8453 citizen groups in community planning, organization, development, and implementation  
8454 of such services; and

8455 (F) Otherwise protecting and promoting the welfare of children and youths, including  
8456 the strengthening of their homes where possible or, where needed, the provision of  
8457 adequate care of children and youths away from their homes in foster family homes or  
8458 day-care or other child care facilities."

8459 "(5) 'Dependent ~~Deprived~~ child or youth' means any person so adjudged under Chapter  
8460 11 of Title 15."

8461 "(12) 'Legal custody' means a legal status created by court order embodying the  
8462 following rights and responsibilities:

8463 (A) The right to have the physical possession of the child;

8464 (B) The right and the duty to protect, train, and discipline the child;

8465 (C) The responsibility to provide the child with food, clothing, shelter, education, and  
8466 ordinary medical care; and

8467 (D) The right to determine where and with whom the child shall live,

8468 provided that these rights and responsibilities shall be exercised subject to the powers,

8469 rights, duties, and responsibilities of the guardian of the person of the child and subject

8470 to any residual parental rights and responsibilities. These rights shall be subject to

8471 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8472 "(16) 'Protective supervision' means a legal status created by court order following

8473 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not

8474 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided

8475 through the court or an agency designated by the court."

8476 **SECTION 4-55.**

8477 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code

8478 Section 49-5-8, relating to powers and duties of the department, as follows:

8479 "(1) Preventive services as follows:

8480 (A) Collecting and disseminating information about the problems of children and

8481 youths and providing consultative assistance to groups, public and private, interested

8482 in developing programs and services for the prevention, control, and treatment of

8483 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8484 (B) Research and demonstration projects designed to add to the store of information

8485 about the social and emotional problems of children and youths and improve the

8486 methods for dealing with these problems;

8487 (2) Child welfare services as follows:

8488 (A) Casework services for children and youths and for mothers bearing children out

8489 of wedlock, whether living in their own homes or elsewhere, to help overcome

8490 problems that result in dependency, ~~deprivation~~, or delinquency;

8491 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse; or

8492 abandonment of children and youths by parents, guardians, custodians, or persons

8493 serving in loco parentis and, on the basis of the findings of such investigation, offer

8494 social services to such parents, guardians, custodians, or persons serving in loco

8495 parentis in relation to the problem or bring the situation to the attention of a law

8496 enforcement agency, an appropriate court, or another community agency;

- 8497 (C) Supervising and providing required services and care involved in the interstate  
 8498 placement of children;
- 8499 (D) Homemaker service, or payment of the cost of such service, when needed due to  
 8500 the absence or incapacity of the mother;
- 8501 (E) Boarding care, or payment of maintenance costs, in foster family homes or in  
 8502 group-care facilities for children and youths who cannot be adequately cared for in their  
 8503 own homes;
- 8504 (F) Boarding care or payment of maintenance costs for mothers bearing children out  
 8505 of wedlock prior to, during, and for a reasonable period after childbirth; and
- 8506 (G) Day-care services for the care and protection of children whose parents are absent  
 8507 from the home or unable for other reasons to provide parental supervision;"

8508 **SECTION 4-56.**

8509 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to  
 8510 persons and agencies permitted access to records, as follows:

8511 "(e) Notwithstanding any other provisions of law, with the exception of medical and  
 8512 mental health records made confidential by other provisions of law, child abuse and  
 8513 ~~deprivation dependency~~ records applicable to a child who at the time of his or her fatality  
 8514 or near fatality was:

- 8515 (1) In the custody of a state department or agency or foster parent;
- 8516 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or
- 8517 (3) The subject of an investigation, report, referral, or complaint under Code Section  
 8518 ~~15-11-173~~ 15-11-743

8519 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating  
 8520 to open records; provided, however, that any identifying information, including but not  
 8521 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and  
 8522 any other information that is privileged or confidential, shall be redacted to preserve the  
 8523 confidentiality of the child, other children in the household, and the child's parents,  
 8524 guardians, custodians, or caretakers. Upon the release of documents pursuant to this  
 8525 subsection, the department may comment publicly on the case."

8526 **SECTION 4-57.**

8527 Said title is further amended by revising paragraph (3) of Code Section 49-5-60, relating to  
 8528 definitions for employee record checks for day-care centers, as follows:

8529 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~  
 8530 ~~battery~~; when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~  
 8531 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, relating

8532 ~~to sexual offenses~~, excluding the offenses of bigamy or marrying a bigamist; a violation  
 8533 of Code Section 16-4-1, ~~relating to criminal attempt~~ when the crime attempted is any of  
 8534 the crimes specified by this paragraph; or any other offenses committed in another  
 8535 jurisdiction which, if committed in this state, would be one of the enumerated crimes  
 8536 listed in this paragraph."

8537 **SECTION 4-58.**

8538 Said title is further amended by revising paragraph (2) of Code Section 49-5-110, relating  
 8539 to definitions for record checks for persons supervising children, as follows:

8540 "(2) 'Crime' means a violation of Code Section 16-5-23, ~~relating to simple battery~~, when  
 8541 the victim is a minor; a violation of Code Section 16-5-24, ~~relating to aggravated battery~~,  
 8542 when the victim is a minor; a violation of Code Section 16-5-70, ~~relating to cruelty to~~  
 8543 ~~children~~; a violation of Code Section 16-12-1, ~~relating to contributing to the delinquency~~  
 8544 ~~of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses~~, excluding the  
 8545 offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16;  
 8546 a violation of Code Section 16-5-1, ~~relating to murder and felony murder~~; a violation of  
 8547 Code Section 16-4-1, ~~relating to criminal attempt~~ as it concerns attempted murder; or any  
 8548 other offense committed in another jurisdiction which, if committed in this state, would  
 8549 be deemed to be one of the enumerated crimes listed in this paragraph."

8550 **SECTION 4-59.**

8551 Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating  
 8552 to definitions, as follows:

8553 "(2) 'Child' means a person under the age of 17 years who is alleged to have committed  
 8554 a delinquent act or a person under the age of 18 years who is alleged to be ~~deprived a~~  
 8555 dependent child or is alleged to be a ~~status-offender~~ child in need of services as those  
 8556 terms are defined by Code Section 15-11-2."

8557 **SECTION 4-60.**

8558 Said title is further amended by revising Code Section 49-5-154, relating to the study of  
 8559 youth needs, as follows:

8560 "49-5-154.

8561 The governing authority of each participating county shall establish a local advisory group  
 8562 which includes representation from each component of the local children's services systems  
 8563 and other interested parties. The advisory group shall appraise the council on the needs of  
 8564 children and youth in its community giving particular attention to the need for prevention  
 8565 programs and community based services, residential or nonresidential, which would

8566 provide an alternative to commitment to or placement or custody in the Department of  
 8567 Juvenile Justice or the Department of Human Services and placement in a ~~youth~~  
 8568 ~~development center, foster home, or any other institution~~ any juvenile detention facility as  
 8569 defined in Code Section 49-4A-1. Such appraisal shall be made annually and in writing.  
 8570 The governing authority of the county may request technical assistance from the council  
 8571 in conducting such study."

#### 8572 **SECTION 4-61.**

8573 Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code  
 8574 Section 49-5-281, relating to bill of rights for foster parents, as follows:

8575 "(15) The right to participate in the case planning and decision-making process with the  
 8576 Division of Family and Children Services regarding the child as provided in Code Section  
 8577 ~~15-11-58~~ 15-11-201;"

8578 "(18) The right to be notified in advance, in writing, by the Division of Family and  
 8579 Children Services or the court of any hearing or review where the case plan or  
 8580 permanency of the child is an issue, including initial and periodic reviews held by the  
 8581 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel  
 8582 in accordance with Code Section 15-11-217, hearings following revocation of the license  
 8583 of an agency which has permanent custody of a child in accordance with Code Section  
 8584 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance~~  
 8585 ~~with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

#### 8586 **SECTION 4-62.**

8587 Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of  
 8588 watercraft while under the influence of alcohol or drugs, is amended by revising subsection  
 8589 (1) as follows:

8590 "(1) A person who violates this Code section while transporting in a moving vessel or  
 8591 personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a  
 8592 child under the age of 14 years is guilty of the separate offense of endangering a child by  
 8593 operating a moving vessel or personal watercraft under the influence of alcohol or drugs.  
 8594 The offense of endangering a child by operating a moving vessel or personal watercraft  
 8595 under the influence of alcohol or drugs shall not be merged with the offense of operating  
 8596 a vessel under the influence of alcohol or drugs for the purposes of prosecution and  
 8597 sentencing. An offender who is convicted of a violation of this subsection shall be  
 8598 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1;  
 8599 ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a~~  
 8600 ~~child.~~"

**PART V****EFFECTIVE DATE, APPLICABILITY, AND REPEALER****SECTION 5-1.**

8604 This Act shall become effective on January 1, 2014, and shall apply to all offenses which  
8605 occur and juvenile proceedings commenced on and after such date. Any offense occurring  
8606 before January 1, 2014, shall be governed by the statute in effect at the time of such offense  
8607 and shall be considered a prior adjudication for the purpose of imposing a disposition that  
8608 provides for a different penalty for subsequent adjudications, of whatever class, pursuant to  
8609 this Act. The enactment of this Act shall not affect any prosecutions for acts occurring  
8610 before January 1, 2014, and shall not act as an abatement of any such prosecutions.

**SECTION 5-2.**

8611  
8612 All laws and parts of laws in conflict with this Act are repealed.