

House Bill 331

By: Representatives Abrams of the 89th, Benton of the 31st, and Hugley of the 136th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to
2 general education provisions, so as to provide for a kinship caregiver to give legal consent
3 in the form of an affidavit for a child residing with such kinship caregiver to receive
4 educational services and medical services directly related to academic enrollment and to
5 participate in curricular or extracurricular activities for which parental consent is usually
6 required; to provide a short title; to provide for definitions; to provide that falsifying a
7 kinship caregiver's affidavit shall constitute false swearing; to provide an affidavit form; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general
12 education provisions, is amended by enacting a new article to read as follows:

13 style="text-align:center">"ARTICLE 1A

14 20-1-14.

15 This article shall be known and may be cited as 'The Caregiver Educational Consent Act.'

16 20-1-15.

17 (a) As used in this article, the term:

18 (1) 'Child' means any individual under 18 years of age.

19 (2) 'Fictive kin' means an individual who is known to a child as a relative but is not in
20 fact related by blood or marriage to such child and with whom such child has resided or
21 had significant contact.

22 (3) 'Kinship caregiver' means a grandparent, great-grandparent, aunt, uncle, great aunt,
23 great uncle, cousin, sibling, or fictive kin who has assumed responsibility for raising a

24 child in an informal, noncustodial, or guardianship capacity upon the parents or legal
 25 custodians of such child:

26 (A) Losing or abdicating the ability to care for such child; or

27 (B) Being unable to ensure that the child will attend school for reasons, including, but
 28 not limited to:

29 (i) A parent or legal custodian being unable to provide care due to the death of a
 30 parent or legal custodian;

31 (ii) A serious illness or terminal illness of a parent or legal custodian;

32 (iii) The physical or mental condition of the parents or legal custodians such that
 33 proper care and supervision of the child cannot be provided;

34 (iv) The incarceration of a parent or legal custodian;

35 (v) The inability to locate the parents or legal custodians;

36 (vi) The loss or uninhabitability of the child's home as the result of a natural disaster;

37 or

38 (vii) A period of active military duty of the parents or legal custodians exceeding 24
 39 months.

40 (4) 'Legal custodian' means a person that has been awarded permanent custody of a child
 41 by court order.

42 (5) 'Parent' means the legal father or the legal mother of a child.

43 (6) 'Reasonable efforts' means actions that a reasonable individual would find sufficient
 44 to determine whether one conclusion is more likely than the other.

45 20-1-16.

46 (a) A kinship caregiver shall be authorized, on behalf of a child residing with the kinship
 47 caregiver, which child is not in the custody of the Division of Family and Children Services
 48 of the Department of Human Services, to give legal consent for such child to:

49 (1) Receive any educational services;

50 (2) Receive medical services directly related to academic enrollment; or

51 (3) Participate in any curricular or extracurricular activities

52 for which parental consent is usually required by executing the affidavit described in Code
 53 Section 20-1-18. The affidavit shall not be valid for more than one year after the date on
 54 which it is executed.

55 (b) Upon transmitting to a school an executed affidavit described in Code Section 20-1-18,
 56 the kinship caregiver shall serve as the school's point of contact for the child regarding
 57 truancy, discipline, and educational progress for as long as such affidavit shall continue to
 58 be in effect.

59 (c) The decision of a kinship caregiver to consent to or refuse educational services or
60 medical services directly related to academic enrollment or any curricular or extracurricular
61 activities for a child residing with the kinship caregiver shall be superseded by any
62 contravening decision of a parent or a person having legal custody of the child, provided
63 that the decision of the parent or legal custodian does not jeopardize the life, health, safety,
64 or welfare of the child.

65 (d) Reasonable efforts shall be made by the kinship caregiver to locate at least one of the
66 child's parents prior to the notarization and submission of the affidavit set forth in Code
67 Section 20-1-18.

68 (e) Nothing in this Code section shall apply to, or give authority for, an abortion as
69 provided in Code Section 15-11-682 or any other provision of law.

70 20-1-17.

71 (a) No person that acts in good faith reliance on a properly executed kinship caregiver's
72 affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit,
73 shall be subject to civil liability or criminal prosecution, or to professional disciplinary
74 procedure, for any action which would have been proper if the facts had been as they
75 believed them to be. This subsection shall apply even if educational services or medical
76 services directly related to academic enrollment or any curricular or extracurricular
77 activities are rendered to a child in contravention of the wishes of the parent or legal
78 custodian of such child; provided, however, that the person rendering the educational
79 services or medical services directly related to academic enrollment or any curricular or
80 extracurricular activities shall not have actual knowledge of the wishes of the parent or
81 legal custodian.

82 (b) A person that relies on a properly executed kinship caregiver's affidavit has no
83 obligation to make further inquiry or investigation. Nothing in this article shall relieve any
84 person of responsibility for violations of other provisions of law, rules, or regulations.

85 (c) If a child ceases to reside with a kinship caregiver for a period in excess of 30 days,
86 such kinship caregiver shall, not later than 30 days after such period, notify all parties to
87 whom he or she has transmitted the affidavit or to whom he or she has caused the affidavit
88 to be transmitted.

89 (d) Any individual who knowingly provides false information in executing the affidavit
90 required by this article commits the offense of false swearing within the meaning of Code
91 Section 16-10-71 and shall be subject to the penalties prescribed by such Code section.

92 20-1-18.

93 (a) A kinship caregiver's affidavit shall be invalid unless it substantially contains, in not
94 less than ten-point boldface type or a reasonable equivalent thereof, the form set forth in
95 subsection (b) of this Code section. The warning statement shall be enclosed in a box with
96 three-point rule lines.

97 (b) The kinship caregiver's affidavit shall be substantially in the following form:

98 'KINSHIP CAREGIVER'S AFFIDAVIT

99 Use of this affidavit is authorized by O.C.G.A. Section 20-1-16.

100 INSTRUCTIONS: Please print clearly.

101 I hereby certify that the child named below lives in my home and I am 18 years of age
102 or older.

103 1. Name of child: _____

104 2. Child's date of birth: _____

105 3. My full name (kinship caregiver giving authorization): _____

106 4. My home address: _____

107 5. I am a kinship caregiver.

108 6. I have assumed kinship caregiver status because of one or more of the following
109 circumstances (check at least one):

110 A parent being unable to provide care due to the death of the other parent;

111 A serious illness or terminal illness of a parent;

112 The physical or mental condition of the parent or the child such that proper care
113 and supervision of the child cannot be provided by the parent;

114 The incarceration of a parent;

115 The loss or uninhabitability of the child's home as the result of a natural disaster;

116 A period of active military duty of a parent exceeding 24 months; or

117 I am unable to locate a parent or parents at this time to notify them of my intended
118 authorization because (list reasons):

119 _____
120 _____.

121 7. Names of parent(s) or legal custodian(s): _____

122 8. Address of parent(s) or legal custodian(s): _____

123 9. Phone numbers and email addresses of parent(s) or legal custodian(s):

124 _____

125 10. Kinship caregiver's date of birth: _____

126 11. Kinship caregiver's State of Georgia driver's license number or identification card
127 number: _____

128 WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE
129 ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE
130 BY A FINE, IMPRISONMENT, OR BOTH.

131 I recognize that if I knowingly and willfully make a false statement in this affidavit, I will
132 be guilty of the crime of false swearing.

133 _____
134 (Kinship caregiver's signature)

135 _____
136 (Kinship caregiver's printed name)

137 Sworn to and subscribed
138 before me this _____
139 day of _____, _____.
140 _____

141 Notary public (SEAL)
142 My commission expires: _____.

143 NOTICES:

144 1. This declaration does not affect the rights of the named child's parent or legal
145 guardian regarding the care, custody, and control of the child and does not mean that
146 the kinship caregiver has legal custody of the child.

147 2. A person that relies on this affidavit has no obligation to make any further inquiry
148 or investigation.

149 3. This affidavit is not valid for more than one year after the date on which it is
150 executed.

151

152 ADDITIONAL INFORMATION:

153 TO KINSHIP CAREGIVERS:

154 1. If the child stops living with you for a period of more than 30 days, you are required
 155 to provide notice not later than 30 days after such period to anyone to whom you have
 156 given this affidavit as well as anyone of whom you have actual knowledge who
 157 received the affidavit from a third party.

158 2. If you do not have the information in item 11 of the affidavit (State of Georgia
 159 driver's license or identification card), you must provide another form of identification
 160 such as your social security number.

161 TO SCHOOL OFFICIALS:

162 The school system may require additional reasonable evidence that the kinship
 163 caregiver resides at the address provided in item 4 of the affidavit.

164 TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

165 1. No person that acts in good faith reliance upon a kinship caregiver's affidavit to
 166 render educational services or medical services directly related to academic enrollment
 167 or any curricular or extracurricular activities, without actual knowledge of facts
 168 contrary to those stated in the affidavit, shall be subject to criminal prosecution or civil
 169 liability to any person, or subject to any professional disciplinary action, for such
 170 reliance if the applicable portions of the form are completed.

171 2. This affidavit does not confer dependency for health care coverage purposes.'

172 20-1-19.

173 Nothing in this article shall be construed to supersede Article 4 of Chapter 9 of Title 19,
 174 the 'Power of Attorney for the Care of a Minor Child Act.'

175 **SECTION 2.**

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