

The House Committee on Judiciary Non-Civil offers the following substitute to HB 43:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated,  
2 relating to children and youth services, so as to provide for registration of maternity  
3 supportive housing residences to provide housing for pregnant women; to define a term; to  
4 provide for requirements; to prohibit rules and regulations; to prohibit constraints imposed  
5 by local governments; to provide for statutory construction; to provide a short title; to amend  
6 Article 1 of Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to  
7 general provisions regarding the Department of Human Services, so as to provide for certain  
8 reports regarding foster parents; to amend Article 1 of Chapter 7 of Title 19 of the Official  
9 Code of Georgia Annotated, relating to general provisions regarding parent and child  
10 relationship generally, so as to provide for equitable caregivers; to provide for standing and  
11 adjudication; to provide for a statutory form; to provide for related matters; to repeal  
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**PART I**  
15 style="text-align:center">**SECTION 1-1.**

16 This part shall be known and may be cited as "The Maternity Supportive Housing Act."

17 style="text-align:center">**SECTION 1-2.**

18 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to  
19 children and youth services, is amended in Code Section 49-5-3, relating to definitions, by  
20 adding a new paragraph to read as follows:

21 "(13.1) 'Maternity supportive housing residence' means a residential home that houses  
22 on behalf of a church, religious organization, or nonprofit organization, up to six pregnant  
23 women aged 18 years or older and their children, at any one time during the woman's  
24 pregnancy and up to 18 months after childbirth; provided, however, that no other services

25 other than housing shall be provided. This term shall not include women who receive  
26 maternity care in the home of a relative or in general or special hospitals."

27 **SECTION 1-3.**

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

29 "49-5-25.

30 (a)(1) On and after July 1, 2020, all maternity supportive housing residences shall  
31 register under this Code section by submitting an application to the department, upon  
32 forms furnished by the department. The form shall require the name, address, and  
33 telephone number of the maternity supportive housing residence and emergency contact  
34 information.

35 (2) A registrant shall be required to pay an annual registration fee of \$25.00 to the  
36 department.

37 (3) The department shall issue a registration certificate, valid for one year, to a maternity  
38 supportive housing residence upon receipt of an application for registration, payment of  
39 the registration fee, and attestation by the applicant that the maternity supportive housing  
40 residence:

41 (A) Has written policies and procedures for admission, intake, and record keeping;

42 (B) Is in compliance with applicable residential building codes; and

43 (C) Has property insurance coverage on the residence which covers the residents,  
44 newborns, and other children.

45 (b) The department shall not have the authority to implement rules and regulations for the  
46 registration of maternity supportive housing residences but shall have the authority to  
47 maintain any records submitted by a residence pursuant to paragraph (3) of subsection (a)  
48 of this Code section.

49 (c) No county, municipality, or consolidated government shall, by rule or ordinance,  
50 constrain the establishment or operation of maternity supportive housing residences or  
51 place requirements on such residences that would not apply to a single family living in the  
52 residence.

53 (d) Nothing in this Code section shall be construed to require a maternity home to register  
54 with the department pursuant to this Code section or for a maternity supportive housing  
55 residence to obtain a license or permit as a maternity home or to meet the requirements of  
56 a maternity home."

57

**PART II**

58

**SECTION 2-1.**

59 Article 1 of Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to  
60 general provisions regarding the Department of Human Services, is amended by adding a  
61 new Code section to read as follows:

62 "49-2-6.1.

63 The department shall provide an annual report not later than the second Monday in January  
64 of each year to the chairpersons of the House Committee on Juvenile Justice and the Senate  
65 Education and Youth Committee detailing the number of applications to serve as foster  
66 parents received by the department through its Division of Family and Children Services  
67 and the number of referrals of such applicants to private agencies for the preceding  
68 calendar year."

69

**PART III**

70

**SECTION 3-1.**

71 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to  
72 general provisions regarding parent and child relationship generally, is amended by revising  
73 Code Section 19-7-3.1, relating to equitable caregivers, form, required findings,  
74 establishment of parental rights, and not a disestablishment of parentage, as follows:

75 "19-7-3.1.

76 (a) The court may adjudicate an individual to be an equitable caregiver.

77 (b) An individual seeking to be adjudicated an equitable caregiver of a child under this  
78 Code section may establish standing to maintain the action in accordance with the  
79 following:

80 (1) File with the initial pleading an affidavit alleging under oath specific facts to support  
81 the existence of an equitable caregiver relationship with the child as set forth in  
82 subsection (d) of this Code section. The pleadings and affidavit shall be served upon all  
83 parents and legal guardians of the child and any other party to the proceeding;

84 (2) An adverse party, parent, or legal guardian who files a pleading in response to the  
85 pleadings in paragraph (1) of this subsection shall also file an affidavit in response,  
86 serving all parties to the proceeding with a copy;

87 (3) The court shall determine on the basis of the pleadings and affidavits pursuant to  
88 paragraphs (1) and (2) of this subsection whether such individual has presented prima  
89 facie evidence of the requirements set forth in subsection (d) of this Code section. The

90 court may in its sole discretion, if necessary and on an expedited basis, hold a hearing to  
91 determine undisputed facts that are necessary and material to the issue of standing; and

92 (4) If the court's determination under paragraph (3) of this subsection is in the  
93 affirmative, the party claiming to be an equitable caregiver has standing to proceed to  
94 adjudication under subsection (d) of this Code section.

95 (c) A document substantially in the following form may be used to create a pleading and  
96 affidavit for purposes of paragraph (1) of subsection (d) of this Code section:

97 IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY  
98 STATE OF GEORGIA

99 A.B.,

100 \_\_\_\_\_ )

101 Plaintiff )

102 )

103 v. ) Civil Action

104 ) File no. \_\_\_\_\_

105 C.D.,

106 \_\_\_\_\_ )

107 Defendant )

108 COMPLAINT

109 The defendant C.D., herein named, is a resident of \_\_\_\_\_ (street),  
110 \_\_\_\_\_, (city) \_\_\_\_\_ County, Georgia, and is subject to the  
111 jurisdiction of this court.

112 As of \_\_\_\_\_ (date), Plaintiff can fully demonstrate to the court that he or she:

113 (1) ~~Plaintiff has~~ Has fully and completely undertaken a permanent, unequivocal,  
114 committed, and responsible parental role in the child's life;

115 (2) Engaged in consistent caretaking of the child;

116 (3) Established a bonded and dependent relationship with the child, the relationship  
117 was fostered or supported by a parent of the child, and such individual and the  
118 parent have understood, acknowledged, or accepted or behaved as though such  
119 individual is a parent of the child; ~~and~~

120 (4) Accepted full and permanent responsibilities as a parent of the child without  
121 expectation of financial compensation; and

122 (5) Demonstrated that the child will suffer physical harm or long-term emotional harm  
 123 and that continuing the relationship between such individual and the child is in the best  
 124 interest of the child.

125 The facts of the case are:

- 126 1. \_\_\_\_\_
- 127 2. \_\_\_\_\_
- 128 3. \_\_\_\_\_
- 129 4. \_\_\_\_\_
- 130 5. \_\_\_\_\_

131		
132	Dated	Pro Se Applicant
133		
134		Address
135		
136		Address

137 (CERTIFICATE OF SERVICE)

138 'AFFIDAVIT OF PETITIONER

139 STATE OF GEORGIA  
 140 COUNTY OF \_\_\_\_\_

141 Personally appeared before me, the undersigned officer duly authorized to administer oaths,  
 142 \_\_\_\_\_, who, after having been sworn, deposes, and says as follows:

143 That my name is: \_\_\_\_\_

144 That my address is: \_\_\_\_\_

145 These are the facts to support the existence of an equitable caregiver relationship with a  
 146 child as set forth in subsection (c) of O.C.G.A. 19-7-3.1:

147		
148	Dated	Pro Se Applicant

149

150

\_\_\_\_\_  
Address

151

152

\_\_\_\_\_  
Address

153 Sworn to and subscribed

154 Before me this \_\_\_\_\_

155 Day of \_\_\_\_\_, \_\_\_\_\_.

156 \_\_\_\_\_

157 Notary public (SEAL)

158 My commission expires: \_\_\_\_\_'

159 (d) In order to establish standing, the court shall first find, by clear and convincing

160 evidence, that within the five years immediately preceding the filing of the initial pleading161 as provided for in subsection (b) of this Code section the individual has:162 (1) Fully and completely undertaken a permanent, unequivocal, committed, and  
163 responsible parental role in the child's life;

164 (2) Engaged in consistent caretaking of the child;

165 (3) Established a bonded and dependent relationship with the child, the relationship was  
166 fostered or supported by a parent of the child, and such individual and the parent have  
167 understood, acknowledged, or accepted or behaved as though such individual is a parent  
168 of the child;169 (4) Accepted full and permanent responsibilities as a parent of the child without  
170 expectation of financial compensation; and171 (5) Demonstrated that the child will suffer physical harm or long-term emotional harm  
172 and that continuing the relationship between such individual and the child is in the best  
173 interest of the child.174 (e) In determining the existence of harm, the court shall consider factors related to the  
175 child's needs, including, but not limited to:

176 (1) Who are the past and present caretakers of the child;

177 (2) With whom has the child formed psychological bonds and the strength of those  
178 bonds;179 (3) Whether competing parties evidenced an interest in, and contact with, the child over  
180 time; and181 (4) Whether the child has unique medical or psychological needs that one party is better  
182 able to meet.

183 (f) A court may grant standing on an individual seeking to be adjudicated as an equitable  
184 caregiver on the basis of the consent of the child's parent for such individual to have a  
185 parental relationship with the child, or on the basis of a written agreement between the  
186 individual seeking to be adjudicated as an equitable caregiver and the child's parent,  
187 indicating an intention to share or divide caregiving responsibilities for the child.

188 (g) The court may enter an order as appropriate to establish parental rights and  
189 responsibilities for such individual, including, but not limited to, custody or visitation.

190 (h) This Code section shall not authorize an original action when both parents of the minor  
191 child are not separated and the child is living with both parents.

192 (i) This Code section shall not authorize an original action by an individual whose  
193 relationship with the child was established as a result of a proceeding under Article 3 of  
194 Chapter 11 of Title 15 and shall not authorize an original action so long as the Division of  
195 Family and Children Services of the Department of Human Services has an open child  
196 welfare and youth services case involving such child or his or her parent.

197 (j) The adjudication of a person under this Code section as an equitable caregiver does not  
198 disestablish the parentage of any other parent.

199 (k) Any party granted custody pursuant to this Code section shall be subject to having his  
200 or her custodial rights to a child removed upon the finding by a court that one or both  
201 parents are no longer a risk of causing physical harm or long-term emotional harm to the  
202 child."

203

**PART IV**

204

**SECTION 4-1.**

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