

House Bill 543

By: Representatives Efration of the 104th and Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding parent and child relationship generally, so as to
3 provide for equitable caregivers; to provide for standing and adjudication; to provide for a
4 statutory form; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
9 general provisions regarding parent and child relationship generally is amended by adding
10 a new Code section to read as follows:

11 "19-7-3.1

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

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

16 (1) File with the initial pleading an affidavit alleging under oath specific facts to support
17 the existence of an equitable caregiver relationship with the child as set forth in
18 subsection (d) of this Code section. Such individual may use the form provided for under
19 subsection (c) of this Code section for purposes of this paragraph. The pleadings and
20 affidavit shall be served upon all parents and legal guardians of the child and any other
21 party to the proceeding.

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

25 (3) The court shall determine on the basis of the pleadings and affidavits pursuant to
26 paragraphs (1) and (2) of this subsection whether such individual has presented prima

27 facie evidence of the requirements set forth in subsection (d) of this Code section. The
28 court may in its sole discretion, if necessary and on an expedited basis, hold a hearing to
29 determine undisputed facts that are necessary and material to the issue of standing.

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

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

35 IN THE COURT OF COUNTY
36 STATE OF GEORGIA

37 A.B.,

38 _____)

39 Plaintiff)

40)

41 v.) Civil Action

42) File no. _____

43 C.D.,

44 _____)

45 Defendant)

46 COMPLAINT

47 The defendant C.D., herein named, is a resident of _____ (street),
48 _____, (city) _____ County, Georgia, and is subject to the
49 jurisdiction of this court.

50 As of _____ (date), Plaintiff can fully demonstrate to the court that:

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

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

54 (3) Established a bonded and dependent relationship with the child, the relationship
55 was fostered or supported by another parent of the child, and such individual and
56 the other parent have understood, acknowledged, or accepted or behaved as
57 though such individual is a parent of the child; and

58 (4) Accepted full and permanent responsibilities as a parent of the child without
59 expectation of financial compensation.

60 The facts of the case are:

- 61 1. _____
- 62 2. _____
- 63 3. _____
- 64 4. _____

65 _____	_____
66 <u>Dated</u>	<u>Pro Se Applicant</u>
67	_____
68	<u>Address</u>
69	_____
70	<u>Address</u>

71 (CERTIFICATE OF SERVICE)

72 AFFIDAVIT OF PETITIONER

73 STATE OF GEORGIA

74 COUNTY OF _____

75 Personally appeared before me, the undersigned officer duly authorized to administer oaths,
76 _____, who, after having been sworn, depose and says as follows:

77 That my name is: _____

78 The my address is: _____

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

81 _____	_____
82 <u>Dated</u>	<u>Pro Se Applicant</u>
83	_____
84	<u>Address</u>
85	_____
86	<u>Address</u>

87 Sworn to and subscribed

88 Before me this _____

89 Day of _____, _____.

90 _____

91 Notary public (SEAL)

92 My commission expires: _____'

93 (d) In determining standing, the court shall consider whether and the extent to which such
 94 individual has:

95 (1) Fully and completely undertaken a permanent, unequivocal, committed, and
 96 responsible parental role in the child's life;

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

98 (3) Established a bonded and dependent relationship with the child, the relationship was
 99 fostered or supported by another parent of the child, and such individual and the other
 100 parent have understood, acknowledged, or accepted or behaved as though such individual
 101 is a parent of the child; and

102 (4) Accepted full and permanent responsibilities as a parent of the child without
 103 expectation of financial compensation.

104 (e) The court may adjudicate an individual to be an equitable caregiver if the court finds
 105 by clear and convincing evidence that the child will suffer physical harm or long-term
 106 emotional harm as a result of the parent's decision to terminate the child's relationship with
 107 such individual and continuing the relationship between such individual and the child is in
 108 the best interest of the child.

109 (f) The court may enter the following orders as appropriate.

110 (1) Enter an interim order concerning contact between an individual with standing under
 111 this subsection and the child; and

112 (2) Determine parental rights and responsibilities for such individual, including, but not
 113 limited to, appropriate orders for the financial support for the child in accordance with
 114 the child support guidelines. Requiring the payment of support to or from an equitable
 115 caregiver shall not relieve any other parent of the obligation to pay child support unless
 116 otherwise ordered by a court. The Georgia Child Support Commission shall study the
 117 impact of this Code section on child support and shall report its findings to the Georgia
 118 General Assembly by July 1, 2020.

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

121 (h) This Code section shall not authorize an original action by an individual whose
 122 relationship with the child was established as a result of a proceeding under Article 3 of

123 Chapter 11 of this title, and shall not authorize an original action so long as the Division
124 of Family and Children Services of the Department of Human Services has an open child
125 welfare and youth services case involving such child or his or her parent.
126 (i) The adjudication of a person under this Code section as an equitable caregiver does not
127 disestablish the parentage of any other parent."

128 **SECTION 2.**

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