

House Bill 543 (COMMITTEE SUBSTITUTE)

By: Representatives Efration of the 104th, Oliver of the 82nd, Wilensky of the 79th, and Rich of the 97th

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 (c) of this Code section. The pleadings and affidavit shall be served upon all
19 parents and legal guardians of the child and any other party to the proceeding;

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

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

26 court may in its sole discretion, if necessary and on an expedited basis, hold a hearing to
 27 determine undisputed facts that are necessary and material to the issue of standing; and
 28 (4) If the court's determination under paragraph (3) of this subsection is in the
 29 affirmative, the party claiming to be an equitable caregiver has standing to proceed to
 30 adjudication under subsection (c) of this Code section.

31 (c) In order to establish standing, the court shall first find, by clear and convincing
 32 evidence, that the individual has:

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

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

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

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

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

45 (d) The court may enter an order as appropriate to establish parental rights and
 46 responsibilities for such individual.

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

49 (f) This Code section shall not authorize an original action by an individual whose
 50 relationship with the child was established as a result of a proceeding under Article 3 of
 51 Chapter 11 of this title, 'The Uniform Family Support Act,' and shall not authorize an
 52 original action so long as the Division of Family and Children Services of the Department
 53 of Human Services has an open child welfare and youth services case involving such child
 54 or his or her parent.

55 (g) The adjudication of a person under this Code section as an equitable caregiver does not
 56 disestablish the parentage of any other parent."

57 **SECTION 2.**

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