

The Senate Committee on Judiciary offered the following substitute to HB 543:

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

33 IN THE COURT OF COUNTY  
 34 STATE OF GEORGIA

35 A.B.,  
 36 \_\_\_\_\_ )  
 37 Plaintiff )  
 38 )  
 39 v. ) Civil Action  
 40 ) File no. \_\_\_\_\_  
 41 C.D.,  
 42 \_\_\_\_\_ )  
 43 Defendant )

44 COMPLAINT

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

48 As of \_\_\_\_\_ (date), Plaintiff can fully demonstrate to the court that:

- 49 (1) Plaintiff has fully and completely undertaken a permanent, unequivocal,  
 50 committed, and responsible parental role in the child's life;
- 51 (2) Engaged in consistent caretaking of the child;
- 52 (3) Established a bonded and dependent relationship with the child, the relationship  
 53 was fostered or supported by another parent of the child, and such individual and  
 54 the other parent have understood, acknowledged, or accepted or behaved as  
 55 though such individual is a parent of the child; and
- 56 (4) Accepted full and permanent responsibilities as a parent of the child without  
 57 expectation of financial compensation.

58 The facts of the case are:

59 1. \_\_\_\_\_

60 2. \_\_\_\_\_

61 3. \_\_\_\_\_

62 4. \_\_\_\_\_

63 \_\_\_\_\_

\_\_\_\_\_

64 Dated

Pro Se Applicant

65

\_\_\_\_\_

66

Address

67

\_\_\_\_\_

68

Address

69 (CERTIFICATE OF SERVICE)

70 'AFFIDAVIT OF PETITIONER

71 STATE OF GEORGIA

72 COUNTY OF \_\_\_\_\_

73 Personally appeared before me, the undersigned officer duly authorized to administer oaths,

74 \_\_\_\_\_, who, after having been sworn, deposes, and says as follows:

75 That my name is: \_\_\_\_\_

76 That my address is: \_\_\_\_\_

77 These are the facts to support the existence of an equitable caregiver relationship with a

78 child as set forth in subsection (c) of O.C.G.A. 19-7-3.1:

79 \_\_\_\_\_

\_\_\_\_\_

80 Dated

Pro Se Applicant

81

\_\_\_\_\_

82

Address

83

\_\_\_\_\_

84

Address

85 Sworn to and subscribed

86 Before me this \_\_\_\_\_

87 Day of \_\_\_\_\_, \_\_\_\_\_.

88 \_\_\_\_\_

89 Notary public (SEAL)

90 My commission expires: \_\_\_\_\_

91 (d) In order to establish standing, the court shall first find, by clear and convincing  
 92 evidence, that the individual has:

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

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

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

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

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

105 (e) The court may enter an order as appropriate to establish parental rights and  
 106 responsibilities for such individual.

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

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

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

116

## SECTION 2.

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