

Senate Bill 439

By: Senators Brass of the 28th, Thompson of the 14th, Mullis of the 53rd, Gooch of the 51st, Dugan of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to provide for enhanced notice to and improved participation of foster,
3 preadoptive, and relative caregivers in certain hearings; to provide for the court's
4 consideration of issues relevant to a child's placement, care, well-being, and permanency
5 raised by such persons; to require certain findings be made by the court; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
10 Code, is amended in Code Section 15-11-109, relating to notice of hearings to specified
11 nonparties, by adding a new subsection to read as follows:

12 "(d) At each hearing or review, the court shall make specific findings of fact in writing
13 regarding participation by the caregiver of a child, the foster parent of a child, any
14 preadoptive parent, or any relative providing care for a child. Such findings of fact shall
15 include:

16 (1) Whether the caregiver was provided notice of the hearing or review, including the
17 method, and whether the caregiver expressed an interest in being heard at the hearing or
18 review; and

19 (2) If the caregiver is present, specific information regarding the caregiver's views,
20 including, but not limited to, concerning the child's well-being, health, and safety; any
21 changes the caregiver believes are necessary to advance the child's well-being, health, and
22 safety; and the timeliness, necessity, and quality of services being provided to the child
23 and caregiver; and a summary of documentation presented by the caregiver regarding the
24 child's well-being, health, and safety, including, but not limited to, reports from
25 physicians, counselors, psychologists, and teachers."

26

SECTION 2.

27 Said chapter is further amended by revising Code Section 15-11-215, relating to notice of
28 change in placement hearings and presumptions, as follows:

29 "15-11-215.

30 (a) Not less than five days in advance of any placement change, DFCS shall, in writing,
31 notify the court, a child who is 14 years of age or older, the child's parent, guardian, or
32 legal custodian, the person or agency with physical custody of the child, the child's
33 attorney, the child's guardian ad litem, if any, and any other attorney of record of such
34 change in the location of the child's placement while the child is in DFCS custody. The
35 notice required by this subsection may include notice via email if the caregiver or other
36 party who will receive the notification has agreed to receive notice via email.

37 (b) If a child's health or welfare may be endangered by any delay in changing his or her
38 placement, the court and all attorneys of record shall be notified of such placement change
39 within 24 hours of such change.

40 (c) A child adjudicated as a dependent child who is 14 years of age or older, his or her
41 parent, guardian, or legal custodian, the person or agency with physical custody of the
42 child, such child's attorney, such child's guardian ad litem, if any, and any attorney of
43 record may request a hearing pertaining to such child's case plan or the permanency plan
44 in order for the court to consider the change in the location of such child's placement and
45 any changes to the case plan or permanency plan resulting from such child's change in
46 placement location. The hearing shall be held within five days of receiving notice of a
47 change in the location of such child's placement and prior to any such placement change,
48 unless such child's health or welfare may be endangered by any delay in changing such
49 child's placement.

50 (d) The Council of Juvenile Court Judges shall by rule provide for methods by which
51 persons entitled to notice, including those not represented by counsel, may electronically
52 file an objection to the placement change. Such rule shall provide for the use of a standard
53 form that the objector may file electronically with the clerk of court and which upon filing
54 shall be distributed electronically to all parties and others entitled to notice.

55 ~~(d)~~(e) At the hearing to consider a child adjudicated as a dependent child's case plan and
56 permanency plan, the court shall consider the case plan and permanency plan
57 recommendations made by DFCS, including a recommendation as to the location of the
58 placement of such child, and shall make findings of fact upon which the court relied in
59 determining to reject or accept the case plan or permanency plan and the recommendations
60 made by DFCS, including the location of such child's placement. The court shall
61 specifically consider any objections filed to the change of placement and shall consider

62 evidence pertaining to such objections, including, but not limited to, evidence from the
 63 child and the foster parent, relative, or caregiver.

64 ~~(e)~~(f) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS
 65 recommendations were considered and explain why it did not follow such
 66 recommendations. If the court rejects the DFCS case plan and permanency plan
 67 recommendations, including the change in the location of the placement of a child
 68 adjudicated as a dependent child, the court may order DFCS to devise a new case plan and
 69 permanency plan recommendation, including a new recommendation as to the location of
 70 such child within the resources of the department, or make any other order relative to
 71 placement or custody outside the department as the court finds to be in the best interests
 72 of such child and consistent with the policy that children in DFCS custody should have
 73 stable placements.

74 ~~(f)~~(g) If the court finds that the child has been living in a stable home environment with
 75 his or her current caregivers for the past 12 months and that removal of the child from such
 76 caregivers would be detrimental to the child's emotional well-being, the court may presume
 77 that continuation of the child's placement with his or her current caregivers is in the child's
 78 best interests and shall enter a finding that a change of placement is a failure by DFCS to
 79 make reasonable efforts to finalize the permanency plan which is in effect at the time of the
 80 hearing.

81 ~~(g)~~(h) Placement or a change of legal custody by the court outside DFCS shall relieve
 82 DFCS of further responsibility for a child adjudicated as a dependent child except for any
 83 provision of services ordered by the court to ensure the continuation of reunification
 84 services to such child's family when appropriate.

85 ~~(h)~~(i) A placement change shall not include a temporary absence from the child's identified
 86 and ongoing foster care placement, including, but not limited to, visitation with a friend,
 87 sibling, relative, or other caretaker, including a ~~pre-placement~~ preplacement visit to a
 88 possible foster or adoptive placement; hospitalization for medical, acute psychiatric
 89 episodes or diagnosis; respite care when the child is expected to return to his or her foster
 90 care placement; day or overnight camp; temporary travel with the foster family or child
 91 care institution personnel, church, school, or other persons or groups approved by DFCS;
 92 trial home visits with the court's permission, if required by subsection (b) of Code Section
 93 15-11-212; and runaway episodes."

94

SECTION 3.

95 Said chapter is further amended in Code Section 15-11-300, relating to notice of hearings to
 96 specified parties, by adding a new subsection to read as follows:

97 "(c) At any termination of parental rights hearing, the court shall make specific findings
 98 of fact in writing regarding participation by the caregiver of a child, the foster parent of a
 99 child, any preadoptive parent, or any relative providing care for a child. Such findings of
 100 fact shall include:

101 (1) Whether the caregiver was provided notice of the hearing, including the method, and
 102 whether the caregiver expressed an interest in being heard at the hearing; and

103 (2) If the caregiver is present, specific information regarding the caregiver's views,
 104 including, but not limited to, concerning the child's well-being, health, and safety; any
 105 changes the caregiver believes are necessary to advance the child's well-being, health, and
 106 safety; and the timeliness, necessity, and quality of services being provided to the child
 107 and caregiver; and a summary of documentation presented by the caregiver regarding the
 108 child's well-being, health, and safety, including, but not limited to, reports from
 109 physicians, counselors, psychologists, and teachers."

110 **SECTION 4.**

111 Said chapter is further amended in Code Section 15-11-320, relating to termination of
 112 parental rights, findings, and standard of proof, by revising paragraph (1) of subsection (b)
 113 as follows:

114 "(1) Contain written findings on which the order is based, including the factual basis for
 115 a determination that grounds for termination of parental rights exist and that termination
 116 is in the best interests of the child, including the findings required by subsection (c) of
 117 Code Section 15-11-300;"

118 **SECTION 5.**

119 Said chapter is further amended in Part 6 of Article 4, relation to disposition, by adding a
 120 new Code section to read as follows:

121 "15-11-324.

122 (a) After the court has granted a termination of parental rights, and during the dispositional
 123 phase of such case contemplated in Code Section 15-11-321 and in any post-dispositional
 124 review under Code Section 15-11-322, the court shall in making its disposition consider
 125 the testimony of and evidence provided by any foster parent, caregiver, relative, or other
 126 individual in whose physical custody the child has resided for at least 12 months during a
 127 period ending not more than 90 days preceding the filing of the petition, provided that such
 128 individual expresses a desire and willingness to adopt the child.

129 (b) Such testimony and evidence may include evidence regarding the level of attachment
 130 and bonding between the child and caregiver; the child's health, safety, and well-being; and
 131 such other evidence that the court may consider relevant to its disposition of the case. The

132 court may, in its discretion, limit the scope of such evidence as it may deem relevant and
133 material to the dispositional issues at hand."

134

SECTION 6.

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