

Summary of Senate Bill 364

Section 1-1

- Adds to the definition of “aggravated circumstances”
- Clarifies that a child in the care of DFCS or eligible to receive DFCS services who are over 18 must have been adjudicated dependent before reaching 18
- Adds biological father the definition of “sibling”
- Cleans up cross references

Section 1-2

Alters how time is counted for the exercise of any privilege or discharge of duty by removing the language exempting “hours.” As such, the first day of a period of time is not counted, but the last day is counted.

Section 1-3 (Current law only addresses supervision or probation begun prior to the child’s 17th birthday.)

- Clarifies that juvenile court has exclusive original jurisdiction in cases where the child has been placed under court supervision or probation for the purposes of enforcing supervision or probation begun either before the child’s 17th birthday if the order is entered as a disposition of the adjudication for delinquency or prior to the 18th birthday if the order is entered for an adjudication for a CHINS.
- Clarifies that juvenile court has exclusive original jurisdiction for termination proceedings relating to the rights of a biological father who is not the legal father of the child.

Section 1-5

- Basically allows any child under court jurisdiction at the time of a hearing, regardless of the date of the original delinquency order, to be under the new law in terms of modification or vacating orders

Section 1-6

- Replaces county “department” of family and children services with county “division”

Section 1-7

- Adds “judicial” to “citizen panel review”

Section 1-8

- Specifies that the need for discovery can only be used as good cause for a continuance in a hearing in a dependency proceeding if the court finds that someone or some entity failed to comply with the discovery order.

Section 1-9

- Expands the list of eligible foster care homes for dependent children to homes of relatives and fictive kin. Further, it requires DFCS to document the reason why siblings shouldn’t be placed together.

Section 1-10

- Provides that a petition for dependency won’t be accepted for filing unless the court or person authorized by the court determines and endorses on the petition that the filing is in the best interest of the child.

Section 1-11

- Adds reunification, adoptive placement, and permanent guardianship as considerations for which DFCS must provide compelling reason through documentation in the case plan as to why these options are not in the best interest of the child.

Section 1-12

- Cross references study report requirements for disposition cases and removes DFCS as the preparer of the report. Current law allows for the court to designate who prepares it in OCGA 15-1-190.

Section 1-13

- Removes requirement that DFCS complete a diligent search before final disposition.

Section 1-14

- Removes DBHDD from the list of public agencies authorized to receive and provide care for a dependent child

Section 1-15

- Changed “citizen judicial review panel” to “judicial citizen review panel”

Section 1-16

- Mandates that a guardian ad litem (GAL) be appointed by the court to a child in a termination hearing. Current law makes it permissive based on request of child’s attorney or court’s motion.
- Specifies that a CASA can be appointed as GAL when possible and may be appointed in addition to an attorney serving as GAL.
- Attempts to provide that if the same GAL has been appointed to represent a child in the past that they be appointed in the future. Proposed language does not accomplish this.

Section 1-17

- Limits the authority of a parent of a child adjudicated as a dependent child to affect custody if the petition to terminate parental rights has been filed except to consent to a judgment terminating their parental rights and execute the act of surrender in favor of a third party or the department.

Section 1-18

- Greatly expands the venues in which a petition to terminate parental rights can be brought to include the county the child legally resides, the county where the child is present when the termination proceedings began if present without parent or guardian, or in the county where the acts which were the basis for the termination occurred. Current law only allowed for the hearing to be held in the county that had jurisdiction over the related dependency proceedings unless the court transfers to the county of the parent’s residence for the convenience of the parties.

Section 1-19

- Requires the certificate from the deadbeat dad’s registry to document a search of the registry *before* (current law provides after) the date of the filing for termination and provide the registry is current as of the date of the petition.

Section 1-20

- Requires that service by publication to terminate parental rights be made once a week for 4 consecutive weeks in the legal organ in the county of the biological father’s last known address. This current code section only requires it to be published in the county where the petition to terminate rights has been filed. This new requirement requires it to be filed in both. However, upon further examination, OCGA 15-11-283(b)(3)(A) does have the notice requirement for both already in code.
- Changes who is eligible to receive the petition for free and who receives a copy of the notice, order of service and petition by mail from “parent” to “party”

Section 1-21

- Provides that a summons be served in the same manner as provided in OCGA 15-11-282(section above).
- It further removes all the notice requirements for a father. Current law contains these requirements generally in OCGA 15-11-282.

Section 1-22

- Other than what is specifically provided in the juvenile code, hearings to terminate parental rights should be conducted in accordance with the evidence code.
- Testimony or other evidence relevant to determining legal grounds for termination cannot be excluded on the grounds of privilege except in the case of communications between a party and their attorney and confessions between the clergy and their confidential communicant.

Section 1-23

- Removes the guardian personal status report requirement for kids who have had their parental rights terminated or surrendered.

Section 1-24

- Expands who can file a complaint for a CHINS to any person who has knowledge.
- Expands what should be in the complaint to include why the court has jurisdiction and why the complaint is in the best interest of the child and public.

Section 1-25

- Reduces the timeframe for a continued custody hearing for a CHINS from 72 hours to 24 hours excluding weekends and holidays if in a residential facility and from 5 days to 72 hours excluding weekends and holidays after the child is placed in foster care.

Section 1-26

- Removes CASA requirement from CHINS cases.

Section 1-27

- Changes when a detention assessment and determination is triggered from immediately upon the being notified by the person taking the child into custody to when the juvenile court intake officer is notified.

Section 1-28

- Provides for a list of placement option that court should consider in making their determination of placement.

Section 1-29

- Reduces the amount of time for a CHINS in a residential facility to have a continued custody hearing from 72 to 24 hours excluding weekends and holidays.
- Reduces the amount of time for a CHINS not in a residential facility, but not released to their parent or guardian to have a continued custody hearing from 5 days to 72 hours, excluding weekends and holidays, after the child is placed in foster care.

Section 1-30

- Specifies what the court is required to inform the parties of at the commencement of a continued custody hearing
- Reduces the amount of time a court can detain a CHINS from 72 to 24 hours excluding weekends and holidays.

Section 1-31

- Removes the order requirement and court determination criteria for detention.

Section 1-32

- Limits who can file a petition that a child is in need of services to the parent, guardian, legal custodian, law enforcement officer, GAL or attorney. Current version allows any person with knowledge to file.
- Provides that no petition can be accepted for filing without court endorsement.

Section 1-33

- Provides that all CHINS in continued custody shall have an adjudication hearing scheduled no later than 10 days after filing a petition that the child is in need of services. Current law does not require . this for kids in secure or unsecure residential facility.

Section 1-34

- Reduces the timeframe for which a final disposition hearing can be held for CHINS from 60 days to 30 days.

Section 1-35

- While this section relates to the duration of disposition orders, the real change is that it removes prosecutor and adds petitioner to the list of who can file disposition orders

Section 1-36

- Removed CASA requirements for delinquency cases.
- Removed the “separate” GAL requirement.
- Provides that the GAL shouldn’t be restricted access to the child.

Section 1-37

- Adds that in a case plan for a child found unrestorably incompetent that if inpatient treatment is recommended the case manager must certify the child is mentally ill or developmentally disabled and meets the criteria for civil commitment.

Section 1-38

- Provides that if the court determines that a child is mentally ill or developmentally disabled during a mental health plan review or hearing and meets the criteria for civil commitment that the child can be committed.

Section 1-39

- Emphasizes that a child whose liberty is not in danger may waive the right to counsel at arraignment.
- Emphasizes that a court can’t accept an admission from a child whose liberty is in jeopardy and who does not have an attorney.

Section 1-40

- Expands timeframe in which a summons for adjudication hearings must be served before the hearing from 24 hours to 72 hours.

Section 1-41

- Allows for the court to issue a bench warrant for a child under 16 who refuses to appear on a petition alleging delinquency. Current law limited this authority to children aged 14 and 15.

Section 1-42

- Clarifies if a case is transferred from juvenile to superior court that the juvenile court will dismiss all delinquency offences being transferred.

Section 1-43

- Limits the timeframe for which an adjudication hearing can be set from scheduling it within a certain timeframe within filing of the delinquency petition to holding the hearing within that timeframe. Current law allows the hearing to be scheduled within 10 days of the filing if the child is in detention and within 60 days if the child is not in detention. The bill requires that the hearing actually be held within that timeframe.

Section 1-44

- Emphasizes that certain requirements dealing with placing children in restrictive custody for felonies are mandatory.
- Provides that time served in residential facilities counts as time served.

- Extends the timeframe in which a court can transmit a copy of the adjudication report to a school from 15 to 30 days.

Section 1-45

- Provides that children who have committed a delinquent act be given credit for time served in an institution or facility for the treatment or examination of a mental or physical disability.

Section 1-46

- Specifies the list of out of home placements for incompetent children to include crisis stabilization units or psychiatric residential treatment facility operated by DBHDD or other program.

Part II/Section 2-1

- Expands definition of “solid substance” regarding the sale, purchase, manufacturing, distribution and sale of controlled substances.

Part III/Section 3-1

- Expands definition of “solid substance” regarding the sale, purchase, manufacturing, distribution and sale of controlled substances.

Revised or Cross references only

- Sections 1-4; 1-47; 2-2; 2-3

Section 4-1

- Allows for a testamentary guardian for a minor with a living parent to take guardianship without a hearing unless an objection is filed.
- Upon probating the will, it requires that all the minor’s adult siblings and grandparents and other relatives as required be notified of the guardianship via certified mail.
- Objections are required to be filed within 10 days of receiving the notice and the objecting party must provide clear and convincing evidence that the guardian is unfit in order to block guardianship.

Section 4-2

- Requires petitioner to provide the names and mailing addresses of any person required to be served notice of the testamentary guardianship.

Section 5-1

- Effective dates- Parts I and II effective upon the Governor’s signature; Part III effective on July 1st

Section 5-2

- Repealer