

House Bill 1145 Summary and Analysis

Origins of House Bill 1145

House Bill 1145 (“HB 1145”) was introduced by Representative Ralston and Representative Mumford on January 31 in the Georgia 2006 General Assembly Legislative Session. The bill is part of the legislative packet of the Department of Juvenile Justice (DJJ). The proposed language is based on current research and successful statutory language from other states’ juvenile codes.

Legislative Purpose

The proposed bill, if enacted, would amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated (O.C.G.A.) in order to clarify the procedures for determining mental incompetency of juveniles who are prosecuted in juvenile court. The author intends to clean up the language in the current code to provide for more overall clarity, require the appointment of counsel early in the process for children who may be incompetent, to require psychological evaluations and specific recommendations for placement and treatment for those children who are determined incompetent, and to require that the children be placed in the least restrictive environment possible.

Summary and Explanation of the Proposed Changes

HB 1145 would clarify juvenile court proceedings relating to the mental health of accused juvenile offenders. Current law requires juvenile courts to order an evaluation of a child’s mental health, if at any time following the filing of a petition, there is a question concerning the child’s competence to stand trial. A qualified examiner must conduct an evaluation and determine whether the child is mentally competent and make a report to the court. The bill proposes to amend O.C.G.A. § 15-11-151 through § 15-11-155 in the following ways:

- 1) **Allowing the child’s parents or legal guardian to motion for an evaluation of the child’s mental condition**
 - a. Currently, O.C.G.A. § 15-11-152(a) allows the court, the attorney representing the child, any guardian ad litem for the child, and the attorney representing the state to motion the court to stay all delinquency or unruly proceedings to order an evaluation of the child’s mental condition.
 - b. HB 1145 proposes to add language to O.C.G.A. § 15-11-152(a) that would also allow for a child’s parent or legal guardian to stay the proceedings for a mental competency evaluation.

- 2) **Allowing for a qualified examiner to cite a child’s age or immaturity as the basis of his or her report to the court that a child is incompetent to stand trial**
 - a. HB 1145 adds to the definition of “Mentally Competent” a child’s age or immaturity as a basis for finding a child not competent to stand trial. It also adds to § 15-11-151 a definition for “Mentally Ill” and “Mental Retardation.”

to the court within 30 days detailing that the treatment, habilitation, support or supervision services are in the least restrictive environment achievable within the limits of current resources. If the plan recommends treatment in a secure environment, certification by the plan manager that all other appropriate community based treatment options have been exhausted. The bill would also add a provision that would clarify that a child who has been adjudicated a dependent of the court must be placed in an appropriate setting.

- i. These provisions will ensure that if a child is not adjudicated delinquent, the child will be moved to an appropriate treatment setting following a finding of dependency.
- ii. This bill mirrors Florida statute § 985.223(4) which uses similar language to require that a child be placed in the least restrictive environment.

7) Requiring the court to dismiss the petition if the child remains incompetent to stand trial after two years following the order

- a. Finally, the bill would add a provision to O.C.G.A. § 15-11-155 which would require that after two years following the date after the order of incompetence, the court may dismiss a petition against a child, if there is no evidence that the child will attain competence within a year.
- b. This new section is based on a provision of Florida law, F.S.A. § 985.223 (5)(C), which similarly requires that the court must dismiss the delinquency petition after two years if the child has not attained competency and evidence does not show that the child will attain competency within a year.

The bill is well drafted and benefits children. The Barton Child Law & Policy Clinic supports the passage of HB 1145.