



Summary of Senate Bill 292 The Child Protection and Public Safety Act

Overview

Senate Bill 292 (“SB 292”) was introduced by Senator Bill Hamrick at the end of the 2009 session of the Georgia General Assembly. This bill, which is also known as the Child Protection and Public Safety Act, would completely revise the Georgia Code’s juvenile court provisions, which govern how our state responds to children and their families in cases of abuse, neglect, violations of criminal law by children, and other circumstances requiring court intervention. The bill reorganizes the code for ease of understanding and application, modernizes substantive provisions to reflect advances in research and practice, and brings Georgia into compliance with federal laws applicable to juvenile court proceedings.

Under the current Georgia Code, provisions relating to abuse and neglect are intermingled with provisions relating to children who have violated the criminal law and those relating to children who require court intervention for some other reason, often creating confusion. A critical component of SB 292 is the establishment of a new organizational structure that separates provisions by the type of case they govern. It accomplishes this by creating twelve articles within the juvenile courts chapter of the Georgia Code, with each article serving its own unique purpose. Here is a brief description of each of these articles:

Article 1 – General Provisions

Article 1 delineates general definitions and principles that would apply in all juvenile court code cases.

Article 2 – Juvenile Court Administration

Article 2 governs the creation and administration of juvenile courts and the appointment of judges. Article 2 would reorganize existing provisions and make minor stylistic revisions. It contains very few substantive changes from current law.

Article 3 – Deprivation

Article 3 relates to cases involving children who have been abused or neglected by the adults responsible for their wellbeing. In Georgia, these are known as “deprivation” cases, because the children are considered to have been deprived of proper care. Article 3 reorganizes the deprivation provisions of current law, and makes many substantive changes.

Article 4 – Termination of Parental Rights

Article 4 governs cases involving a petition to involuntarily terminate the rights of a parent to the custody and control of his or her child because the parent is unable to safely and adequately care for the child. These petitions generally follow deprivation proceedings, and therefore several Article 4 provisions incorporate changes made by Article 3. Article 4 also makes additional substantive changes.

Article 5 – Independent Living Services

Article 5 creates a completely new set of provisions intended to ensure that deprived children in foster care are given the opportunity and assistance they need to plan for their futures, learn necessary skills for independence, and get off to a good start in their adult lives.



Article 6 – Children in Need of Services

Article 6 creates a new approach for intervening with children who are currently considered “unruly.” Children in Need of Services (“CHINS”) include children who have committed an act that would not be against the law but for the fact that they are children, such as skipping school, running away from home, drinking alcohol, and violating curfew. CHINS also include children who are “habitually disobedient” to their parents and place themselves or others in unsafe circumstances through their behavior. Currently, court intervention with these children is similar to intervention in delinquency cases. Article 6 of SB 292 creates a more holistic, service-oriented approach to these cases.

Article 7 – Delinquency

Article 7 relates to cases involving children who have committed acts that would be crimes if the children were adults. These acts are known as “delinquent acts” and the cases are known as “delinquency” cases. Article 7 reorganizes and clarifies the delinquency provisions of current law, and makes substantive changes.

Article 8 – Competency in Delinquency Cases

Article 8 governs the way courts determine whether a child is competent to participate in delinquency proceedings, and how the court responds to a child who is not competent. Competency is important because due process requires that people not be subjected to the possible loss of their liberty in criminal or delinquency cases unless they have the capacity to effectively assist their attorneys in their defense. Article 8 of SB 292 revises current law regarding competency in juvenile proceedings.

Article 9 – Parental Notification

Article 9 renumbers provisions of current law requiring notification of parents when people under the age of 18 seek abortions. The language of these provisions is not modified by SB 292; the provisions are simply renumbered to fit into the new structure of O.C.G.A. Title 15, Chapter 11.

Article 10 – Access to Hearings and Records

Article 10 governs access to hearings and records in juvenile proceedings. For the most part, Article 10 maintains the level of confidentiality that existed at the time of SB 292’s drafting and introduction in the spring of 2009. However, since that time, the Georgia General Assembly has passed and the Governor has signed a bill that substantially revised the public’s access to juvenile court hearings, effective January 1, 2010. As a result, SB 292 returns many provisions to the state of the law prior to January 1, 2010, and makes other changes.

Article 11 – Emancipation

Article 11 relates to “emancipation,” which is the process by which a child becomes a legal adult responsible for his or her own care and able to enter into contracts and other adult transactions. Emancipation also releases parents from their obligations to the child and their rights to the care and control of the child. Children are automatically emancipated when they turn 18, when they are married, and when they are serving in the U.S. military. Current law also provides for a child who does not meet these automatic criteria to petition the court for early emancipation. Article 8 of SB 292 reorganizes and clarifies current law regarding emancipation, but does not make any substantive changes.

Article 12 – Child Advocate for the Protection of Children

Article 12 renumbers provisions of current law establishing the Office of the Child Advocate and governing its operation. The language of these provisions is not modified in any way by SB 292; the provisions are simply renumbered to fit into the new structure of O.C.G.A. Title 15, Chapter 11.