



2009 Legislative Summary

The Georgia General Assembly adjourned on April 3, 2009. The General Assembly meets biennially, meaning that each term is two years. The end of the 2009 session of the General Assembly thus marks the end of the first year of the 2009-2010 term. Legislation that did not pass both chambers in 2009 may still be considered by the legislature in the 2010 session.

The bills listed below passed both chambers of the General Assembly in 2009 and have either been signed by the Governor or were not vetoed by him. The Governor may sign the bill or do nothing and the bill will become law on July 1, 2009 unless otherwise specified. The Governor may also veto a bill, but he must do so within 40 days of the legislature's adjournment. This year that veto date was May 13, 2009.

Child Welfare Legislation Passed by the Georgia General Assembly in 2009

The following child welfare legislation that passed may be of interest to child advocates.

[HB 123](#) amends O.C.G.A. § 16-6-4 by expanding the offenses of child molestation and aggravated child molestation to include transmission of indecent images to a child by electronic means. Governor Perdue signed [HB 123](#) on May 6, 2009.

[HB 237](#) amends O.C.G.A. Title 49 related to the provision of financial assistance to families adopting children from foster care. The bill allows adoption assistance payments to begin once the child has been placed for adoption, found eligible for assistance, and the adoption assistance agreement has been signed by the parties. Under current law, adoption assistance payments begin after the consummation of a legal adoption. The bill limits adoption assistance to the amount of money that would have been paid to support the child in family foster care and for uncovered medical costs. Governor Perdue signed [HB 237](#) on April 21, 2009.

[HB 254](#) amends O.C.G.A. § 15-11-55 related to dispositions in deprivation cases and § 15-11-103 related to placement of a child post termination of parental rights. The bill reduces the time allowed for a diligent search for relatives from 90 days to 30 days after removal of the child from the home in accordance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. The bill also requires that placements of children after termination of parental rights (post TPR) be made in accordance with the child's permanency plan and a best interest determination that considers (1) the child's need for permanence; (2) the least disruption to the child; (3) the child's sense of attachment; and (4) any other relevant factors. This new standard replaces the current preferential hierarchy of post TPR placements that begins with relatives and ends with a child-placing agency. In essence, the bill shifts the preference for placement with relatives to earlier in the pendency of the case. Governor Perdue signed [HB 254](#) on April 21, 2009.

[SB 79](#) amends O.C.G.A. Title 49 related to child abuse and deprivation records to allow limited access to records and information involving the near fatality of a child. 'Near fatality' is defined by the bill as 'an act that places a child in serious or critical condition as certified by a physician.' Health care and mental health records that are confidential under federal law remain confidential and may not be released under [SB 79](#). Similarly, identifying information must be redacted. Upon the release of documents relating to a child fatality or near fatality, the Department of Human Resources is allowed to comment publicly on the case. Governor Perdue signed [SB 79](#) on April 21, 2009.



[SB 172](#) expands the use of Crime Victim's Emergency Funds to provide assistance and counseling to child victims and others who have suffered severe mental or emotional trauma as certified by a licensed mental health provider. Current law only allows disbursement of the funds to victims who have suffered a physical injury. [SB 172](#) would potentially allow child victims of severe verbal and emotional cruelty, child victims of sexual molestation where there is no physical injury, and children who are victims of commercial sexual exploitation and human trafficking to receive assistance from the fund. Governor Perdue signed [SB 172](#) on April 29, 2009.

Juvenile Justice Legislation Passed by the Georgia General Assembly in 2009

The following juvenile justice legislation that passed may be of interest to child advocates.

[HB 245](#) amends O.C.G.A. § 15-11-66 related to the disposition of a delinquent child. Specifically, the bill reduces the short term program (STP) from 60 days to 30 days. The bill is part of the legislative package of the Department of Juvenile Justice (DJJ) and they estimate the provision will save DJJ \$7 million. [HB 245](#) includes a sunset provision to automatically restore the 60 day program in 2011. The Senate passed [HB 245](#) on March 30, 2009. Governor Perdue signed [HB 245](#) on April 21, 2009.

[SB 246](#) creates a new code section, O.C.G.A. § 15-11-51, that requires the juvenile court intake officer to notify victims of serious violent felonies, designated felonies, stalking, and aggravated stalking, when a child accused or adjudicated of committing the enumerated offenses is released from detention. Notification is required 24 hours in advance of the pre-adjudication release of the child, and 48 hours in advance of the post adjudication release of the child, and only if the victim requests such notice. [SB 246](#) was adopted by the House on April 1, 2009, and was agreed to by the Senate on April 3, 2009. The bill was signed by Governor Perdue on May 4, 2009 and immediately became law upon his signature.

Commercial Sexual Exploitation of Children Legislation Passed by the Georgia General Assembly in 2009

[SB 69](#) expands the definition of sexual exploitation in the mandatory reporting statute to include exploitation by persons who are not a child's parent or caretaker. Governor Perdue signed [SB 69](#) on May 5, 2009.

[SR 506](#) creates the Senate Study Committee on Mental Health Continuum Care to study the conditions, needs, issues, and problems experienced by commercially sexually exploited children as well as the services that may be available to recognize and treat mental health issues in minors. The Senate adopted [SR 506](#) on April 1, 2009.

[SR 642](#) creates the Senate Study Committee on Consolidation of Services for Crime Victims to study the existing structure of providing services to crime victims, including sexually exploited children and victims of domestic violence, and to consider whether consolidation of such services would be useful for Georgia. The Senate adopted [SR 642](#) on April 1, 2009.

Department of Human Resources Reorganization Legislation Passed by the Georgia General Assembly in 2009

[HB 228](#) dismantles the Department of Human Resources, reorganizes the Department of Community Health, and creates a new Department of Behavioral Health and Developmental Disabilities that houses the functions of the current Division of Mental Health, Developmental Disabilities, and Addictive Diseases (MHDDAD). The Department of Human Resources (DHR) would become the Department of Human Services and would retain the Division of Family and Children Services and Aging. The Division of Public



Health and some of the functions of the Office of Regulatory Services move from DHR to the Department of Community Health. Governor Perdue signed [HB 228](#) on May 4, 2009.

Open Courts Legislation Passed by the Georgia General Assembly in 2009

[SB 207](#) amends O.C.G.A. § 15-11-78 to allow the general public to attend deprivation proceedings, unless the court closes the proceedings upon a finding on the record and a signed order as to the reasons for closing the hearing. Grounds for closing a hearing include a finding that (1) the proceeding involves allegations of a sexual offense, (2) closing the proceeding is in the best interest of the child, considering the child's age, the nature of the allegations, and any potential effect of publicity on achieving reunification of the family, or (3) closing the proceeding is necessary to protect the privacy of a child, caretaker, or victim of domestic violence. The court may close a proceeding or refuse to admit any person to a hearing upon its own motion or a motion of any party, including the child. Additionally, the court may refuse to admit any person to a hearing upon making a finding on the record that the person's presence would be detrimental to the best interest of the child, impair the fact-finding process, or otherwise be contrary to the interest of justice. [SB 207](#) allows the court to order the media not to release any identifying information regarding the child or the child's family and directs that any requests for installation of electronic recording equipment be made to the court two days in advance of the hearing. [SB 207](#) also permits the juvenile court to seal a record containing identifying information about a victim of a sexual offense. [SB 207](#) does not make changes to current law regarding access to delinquency proceedings. [SB 207](#) does, however, include a new provision that requires state and county agencies, including DHR, public schools, and law enforcement units, to exchange information about a child which may assist with the assessment, treatment, intervention or rehabilitation of the child, if such information is not already confidential under the law. The bill has an effective date of January 1, 2010. [SB 207](#) was passed by the House on April 1, 2009 with amendments. The Senate agreed to the House version on April 1, 2009. Governor Perdue signed the bill on April 30, 2009.

For more information on Open Courts, please read our 2006 white paper available at <http://childwelfare.net/activities/legislative2006/OpenCourtsMemo20060306.html>.

Looking forward to 2010

The following bills were introduced during the 2009 session and could be taken up by the Georgia General Assembly in 2010; these bills may be of interest to child advocates.

[HB 10](#) would allow the Georgia Crime Information Center to release criminal records to private individuals and businesses without the consent or fingerprints of the individual. The bill provides an exception for the records of juveniles adjudicated delinquent, which could not be released under the bill. [HB 10](#) awaits consideration by the House Non-Civil Judiciary Committee.

[HB 37](#), or the Parent Protection Act, would allow working parents to take a more active role in their children's education and health care by allowing for up to 24 hours of unpaid, job-protected leave per year to attend school conferences or to take a child to medical appointments, such as checkups or immunizations. The bill awaits consideration by the House Committee on Industrial Relations.

[HB 111](#) clarifies sentencing criteria for defendants guilty of crimes involving bias or prejudice by defining bias or prejudice as selecting victims based on race, religion, gender, gender identity, sexual orientation, or national origin. The bill would provide an alternative sentencing option for youthful offenders less than 18 years of age. Judges would have discretion to reduce the enhanced penalties for these youthful offenders. [HB 111](#) awaits consideration by the House Judiciary Committee.



[HB 142](#), or the Billy Foulke Seatbelt Act, would increase the penalties for teenagers who repeatedly fail to use a seat belt. Penalties would include driver's license suspension for three months to a year, license restoration fees, and fines. The House Non-Civil Judiciary Committee will hold a hearing on [HB 142](#) on Monday, June 15, 2009 at 9:30 am in room 132 of the Capitol.

[HB 163](#) would amend O.C.G.A. §§ 17-3-1 and 17-3-2.1 to eliminate the statute of limitations for prosecuting offenders accused of committing the following offenses when the victim is younger than 16 years old at the time of the violation: cruelty to children, rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child molestation, enticing a child for indecent purposes, and incest. The House Non-Civil Judiciary Committee passed [HB 163](#) out of committee on March 9, 2009. Because the bill did not pass the full House before Sine Die, the bill has been recommitted to the House Non-Civil Judiciary Committee.

[HB 213](#) would increase the sentence of individuals convicted of criminal street gang activity within a school safety zone. The current minimum mandatory sentence would be increased by two years. [HB 213](#) awaits consideration by the House Non-Civil Judiciary Committee.

[HB 246](#) would amend O.C.G.A. § 15-11-46.1 related to the pre-adjudication detention of children. The bill would require the use of a written risk assessment instrument at intake before a child can be detained pre-adjudication. The court would retain the ability to override the instrument with written findings that consider a set of factors such as the nature of the allegations against the child, the age of the child, and the child's prior history, among others. Pre-adjudication detention is allowable under [HB 246](#) in order to ensure the child's appearance in court, reduce the risk of harm to others, or reduce the risk of harm to the child at the request of the child. [HB 246](#) awaits consideration by the House Non-Civil Judiciary Committee.

[HB 303](#) would amend O.C.G.A. § 49-5-41 to allow a solicitor-general or assistant solicitor-general access to records concerning reports of child abuse. The House passed [HB 303](#) on March 10, 2009. [HB 303](#) passed the House and was favorably reported out by the Senate Judiciary Committee, but was not considered by the full Senate before Sine Die. The bill returns to Senate Judiciary for further consideration.

[HB 351](#) would restrict state agencies such as the county Boards of Health and the county and district offices of the Division of Family and Children Services from providing family planning services, including medical referral services or birth control devices to unemancipated minors without a parent's or guardian's consent. Given that DFCS is also the legal custodian of children in its custody, [HB 351](#) could chill the ability of DFCS workers to refer young people in their custody for family planning services. [HB 351](#) awaits consideration by the House Civil Judiciary Committee.

[HB 428](#) would amend O.C.G.A. Title 49 related to the adoption of special needs children. The bill would authorize the transfer of adoption assistance to a legal guardian at the time of an adopted parent's death. [HB 428](#) awaits consideration by the House Children and Youth Committee.

[HB 582](#) would amend O.C.G.A. § 16-6-9 and § 16-6-16 by mandating a minimum age of 18 years old for the prosecution of the offenses of prostitution and masturbation for hire. The bill would codify that prostituted children are victims of adult exploiters rather than offenders. [HB 582](#) awaits consideration by the House Non-Civil Judiciary Committee.

[HB 668](#) would amend O.C.G.A. § 20-2-751.4 related to bullying to provide local school boards with more discretion to reassign students who have bullied other students to another school in order to separate the bully from the victim. [HB 668](#) would also mandate that school administrators notify law enforcement when a student commits a physical assault or battery. Currently, such reporting is allowed, but at the discretion of the administrator. [HB 668](#) awaits consideration by the House Committee on Education.



[HB 729](#) would amend O.C.G.A. § 15-11-66 and § 49-4A-8 to require (1) the issuance of a protective order at the disposition of a delinquent child requiring that the child not contact the victims of delinquent and designated felony acts; and (2) requiring the Department of Juvenile Justice to notify a victim five days prior to the release of a detained child who was adjudicated for a delinquent act of violence or for a delinquent act that threatened violence against that victim. [HB 729](#) awaits consideration by the House Non-Civil Judiciary Committee.

[HB 824](#) would amend O.C.G.A. § 15-11-30.3 to require that a child age 15 years or older must be transferred to superior court if the child is alleged to have committed a burglary and has twice before been found by the juvenile court to have committed a burglary. The bill also amends O.C.G.A. § 15-11-47 to provide that only a court shall have the authority to make the decision whether to detain a child who is taken into custody for allegedly committing a burglary. [HB 824](#) awaits consideration by the House Non-Civil Judiciary Committee.

[SB 42](#) would restructure the Georgia Public Defender Standards Council and create a Georgia Public Defenders Agency. The bill would strip the current Council of much of its authority and vest this authority in the director of the agency. The Council would become an advisory body. The House Non-Civil Judiciary Committee passed [SB 42](#) on March 20, 2009. The House postponed a vote on [SB 42](#) on April 1, 2009. Because the bill did not pass the full House before Sine Die, the bill has been recommitted to the House Non-Civil Judiciary Committee.

[SB 74](#) would require that dancers, entertainers, performers, bartenders, waiters, and waitresses in adult entertainment establishments be 21 years old. [SB 74](#) awaits consideration by the Senate Judiciary Committee.

[SB 91](#) would amend O.C.G.A. Title 17 to create a \$5.00 per customer surcharge on entry into adult entertainment establishments. The surcharge would be deposited into a victim compensation fund that could be used to fund programs and residential treatment facilities for victims of commercial sexual exploitation. The Senate Finance Committee passed [SB 91](#) on March 5, 2009, but the bill was not considered by the full Senate before Sine Die. The bill returns to the Senate Finance Committee for further consideration.

[SB 132](#), also known as the Dropout Deterrent Act, would raise the age of mandatory education in Georgia to seventeen years old from the current age of sixteen years old. [SB 132](#) awaits consideration by the Senate Education and Youth Committee.

[SB 239](#) would amend O.C.G.A. § 20-2-60.1 to require parents and guardians to enroll children in a new school within 10 days after a change in residence that requires enrolling the child in a new school. The bill imposes sanctions of parents and guardians who fail to enroll their children in school including fines of between \$25.00 and \$100.00, imprisonment for up to 30 days, and community service. The Senate Education and Youth Committee passed [SB 239](#) on March 5th and the Senate passed the bill on March 10, 2009. The House Education Committee passed [SB 239](#) on March 26, 2009. Because the bill did not pass the full House before Sine Die, the bill has been recommitted to the House Education Committee.

[SB 250](#) would amend O.C.G.A. § 20-2-1181 related to the disruption of public schools. The bill would add an intent requirement to the charge of disrupting and interfering with the operation of public schools, making it unlawful for a person to 'knowingly, intentionally, or recklessly disrupt or interfere with the operation of any public school.' O.C.G.A. § 20-2-1181 has been found to be unconstitutionally vague by some courts. [SB 250](#) is an attempt to cure such rulings. The House Non-Civil Judiciary Committee passed [SB 250](#) on March 25, 2009. Because the bill did not pass the full House before Sine Die, the bill has been recommitted to the House Non-Civil Judiciary Committee.



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The Child Protection and Public Safety Act

The Child Protection and Public Safety Act, also known as Senate Bill 292, would comprehensively modernize and streamline O.C.G.A. Title 15. The bill rewrites Georgia's juvenile code to improve the manner in which courts interact with children. The bill's lead sponsor, Senator Bill Hamrick (R-Carrollton) praised the collaborative efforts that resulted in [SB 292](#), saying, "For more than a year now, the JUSTGeorgia coalition has done the hard work of carefully analyzing Georgia's existing Juvenile Code and developing thoughtful improvements." The Child Protection and Public Safety Act has wide bi-partisan support. Among the 23 co-sponsors are Senator Seth Harp (R-Midland), Senator Robert Brown (D-Macon), Senator Don Thomas (R-Dalton), Senator Emanuel Jones (D-Decatur), Senator Renee Unterman, (R-Buford) and Senator Nan Orrock (D-Atlanta).

The lead partners of the JUSTGeorgia coalition are the Barton Clinic, Georgia Appleseed, and Voices for Georgia's Children. For more information about JUSTGeorgia and to join the coalition please visit the website at <http://www.justgeorgia.org/>.