



House Bill 254 Summary and Analysis¹

Origins of House Bill 254

House Bill 254 (“HB 254”) was introduced by Representative Peake on February 2nd in the Georgia 2009 General Assembly Legislative Session. This bill was a legislative initiative of the Office of the Child Advocate.

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.”) to implement the new federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008, that requires states to take more aggressive action in searching for relatives and notifying them of children in state custody² and to provide timely permanency for children in the foster care system.

Summary and Explanation of the Proposed Changes

HB 254 proposes to amend Chapter 11 of Title 15 by requiring that the Department of Human Resources (“DHR”) exercise due diligence to identify a parent or adult relatives of a child removed from the custody of his or her parents within 30 days after the removal of a child. Additionally, DHR would be required to provide all identified adult relatives of the child with timely notice. Finally, courts would be allowed to make permanency placements in accordance with the best interest of the child instead of following a mandated list of preferential permanent placements. Specifically, HB 254 would amend O.C.G.A. in the following ways:

- 1) **Requiring that a diligent search for adult relatives of the child be completed within 30 days of removal instead of 90 days of removal.**
 - a. Currently, O.C.G.A. § 15-11-55 (a)(2) requires that a reasonably diligent search for a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child shall be conducted by the court and the Department of Human Resources within 90 days from the date on which the child was removed from the home.
 - b. HB 254 proposes to shorten the 90 day requirement to 30 days.
- 2) **Requiring that specific notice to all identified adult relatives of the child be provided with notice.**
 - a. Currently, O.C.G.A. § 15-11-55 specifies that a diligent search for a parent or relative of the child must take place, but does not require that identified relatives be informed of the deprivation proceedings.

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² 42 U.S.C. § 671(a)(29).



- b. HB 254 proposes to include a notice requirement that all identified adult relatives of the child, subject to exceptions due to family or domestic violence, be provided with notice:
 - 1) “specifying that the child has been or is being removed from parental custody,”
 - 2) “explaining the options the relative has to participate in the care and placement of the child and any options that may be lost by failing to respond to the notice,”
 - 3) “describing the process of becoming an approved foster family home and the additional services and supports available for children placed in approved foster homes,” and
 - 4) “describing any financial assistance for which the relative may be eligible.”
- 3) **Requiring that the parent or legal guardian assist in locating possible relative placements for the child.**
 - a. Currently, O.C.G.A. § 15-11-55 does not specify any involvement by the parent or guardian in locating relatives of the child or other persons who have demonstrated an ongoing commitment to the child.
 - b. HB 254 proposes to require that the court shall order in its preliminary disposition that the parent or other legal guardian of the child provide the names and addresses of all relatives and possible placements for the child within ten days. Additionally, the parent or guardian would have an ongoing duty to update this information during the course of the case at each judicial review or citizen panel review.
- 4) **Determining the proper placement for a child upon the entering of an order terminating the parental rights of a parent.**
 - a. Currently, O.C.G.A. § 15-11-103 articulates a list of potential placements for a child and specifies an order in which they should be considered. If the first type of placement is not available, the second type may be considered; if the first and second type are not available, the third type may be considered; and so forth.
 - b. HB 254 proposes to strike the ordered list and instead include language that says any placement may be approved so long as it is in the best interest of the child and in accordance with the child’s court approved permanency plan created pursuant to Code section 15-11-58.
 - c. Further, HB 254 proposes that the court shall consider the following in determining which placement is in the child’s best interest:
 - 1) “the child’s need for a placement that offers the greatest degree of legal permanence and security,”
 - 2) “the least disruptive placement alternative for the child,”
 - 3) “the child’s sense of attachment and need for continuity of relationships,” and
 - 4) “any other factors the court deems relevant to its determination.”



5) **Bringing Georgia into compliance with current federal law.**

- a. Currently, due to the recent passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008,³ O.C.G.A. § 15-11-55 needs to be amended to meet the requirements of this new federal law.
- b. The Fostering Connections to Success and Increasing Adoptions Act of 2008 provides that “within 30 days after the removal of a child from the custody of the parent or parents of the child, the state shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents).”⁴
- c. HB 254’s proposals would bring Georgia into compliance with the Fostering Connections to Success and Increasing Adoptions Act of 2008. HB 254’s proposed language mirrors that of the new federal legislation.

Analysis and Recommendations

Children benefit from permanent homes.

In 1980, Congress enacted the Adoption Assistance and Child Welfare Act of 1980 (“AACWA”). The federal government designed AACWA to “de-emphasize the use of foster care and encourage greater efforts to place children in permanent homes.”⁵ Because Congress found numerous indications that the foster care system was detrimental to children,⁶ it focused on providing solutions for finding permanent homes. Through AACWA, the federal government established that it is good public policy to move children to permanent homes as quickly as possible. “One of the primary goals of our nation’s child welfare system is to ensure that children who have been removed from their parents’ homes are reunified or placed in another permanent situation . . . in a timely manner.”⁷ HB 254’s proposed amendments to both O.C.G.A. § 15-11-55 and O.C.G.A. § 15-11-103 would promote prompt placement in permanent homes as well as permanency with relatives.

Additionally, social science research has shown that permanency placement in a timely manner benefits the child.⁸ The familiarity and continuity that comes with placement with a family member lessens the trauma a child experiences when separated from a parent.⁹ Experts argue that kinship caregivers are more likely to take interest in the well-being of the child as well as

³ *Id.*

⁴ *Id.*

⁵ S. REP. NO. 96-336, (1979), *reprinted in* 1980 U.S.C.C.A.N. 1448, 1461.

⁶ *Id.* at 1459.

⁷ Rob Green, *Finding Permanent Homes for Foster Children: Issues Raised by Kinship Care*, THE URBAN INSTITUTE, April 2003, No. A-60 at 1, *available at* http://www.urban.org/UploadedPDF/310773_A-60.pdf.

⁸ See James R. Milliken and Gina Rippel, *Effective Management of Parental Substance Abuse in Dependency Cases*, 5 J. OF THE CENTER FOR FAM., CHILD., AND THE CTS. 95, 104 (2004) (“Any reduction in the amount of time it takes to make a permanent placement decision benefits the child.”).

⁹ Jennifer Ehrle and Rob Geen, *Kin and Non-Kin Foster Care—Findings from a National Survey*, 24 CHILDREN AND YOUTH SRVCS. REVIEW 15, 16 (2002).



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provide a sense of family support for the child.¹⁰ Therefore, finding a relative placement benefits the child. HB 254's proposed amendments promotes placement with relatives of the child or other persons who have demonstrated an ongoing commitment to the child.

Conclusion

House Bill 254 is well drafted and benefits children. The Barton Child Law and Policy Clinic supports the passage of this bill.

¹⁰ Jennifer Ehrle and Rob Geen, *Kin and Non-Kin Foster Care—Findings from a National Survey*, 24 CHILDREN AND YOUTH SRVCS. REVIEW 15, 16 (2002) (citing H. Dubowitz, S. Feigelman, & S. Zuravin, *A Profile of Kinship Care*, 72 CHILD WELFARE 153 (1993)).