

House Bill 369 (AS PASSED HOUSE AND SENATE)

By: Representatives Rice of the 51st, Lindsey of the 54th, Ehrhart of the 36th, Manning of the 32nd, Butler of the 18th, and others

A BILL TO BE ENTITLED

AN ACT

1 To provide for legislative findings; to amend Article 2 of Chapter 6 of Title 5, Code Section
 2 9-11-133, and Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to
 3 appellate practice, forms meeting requirements for civil case filing and disposition, and child
 4 custody proceedings, respectively, so as to provide for changes in child custody proceedings;
 5 to provide for direct appeals in certain domestic relations cases; to change certain provisions
 6 relating to cases requiring application for appeal; to add information to filing and
 7 dispositional forms in domestic relations cases; to provide for a parenting plan in child
 8 custody cases and the procedure therefor; to provide factors in determining the best interests
 9 of the child; to provide for written findings of fact in child custody proceedings; to provide
 10 for attorney's fees and expenses of litigation in child custody proceedings; to provide for
 11 binding arbitration; to amend Code Section 19-7-22 of the Official Code of Georgia
 12 Annotated, relating to petition for legitimation of child, so as to correct a cross-reference; to
 13 provide for related matters; to provide for an effective date and applicability; to repeal
 14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 The General Assembly of Georgia declares that it is the policy of this state to assure that
 18 minor children have frequent and continuing contact with parents who have shown the ability
 19 to act in the best interests of their children and to encourage parents to share in the rights and
 20 responsibilities of rearing their children after the parents have separated or dissolved their
 21 marriage or relationship.

22 **SECTION 2.**

23 Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to
 24 appellate practice, is amended by revising subsection (a) of Code Section 5-6-34, relating to
 25 judgments and rulings deemed directly appealable, as follows:

1 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the
 2 following judgments and rulings of the superior courts, the constitutional city courts, and
 3 such other courts or tribunals from which appeals are authorized by the Constitution and
 4 laws of this state:

5 (1) All final judgments, that is to say, where the case is no longer pending in the court
 6 below, except as provided in Code Section 5-6-35;

7 (2) All judgments involving applications for discharge in bail trover and contempt cases;

8 (3) All judgments or orders directing that an accounting be had;

9 (4) All judgments or orders granting or refusing applications for receivers or for
 10 interlocutory or final injunctions;

11 (5) All judgments or orders granting or refusing applications for attachment against
 12 fraudulent debtors;

13 (6) Any ruling on a motion which would be dispositive if granted with respect to a
 14 defense that the action is barred by Code Section 16-11-184;

15 (7) All judgments or orders granting or refusing to grant mandamus or any other
 16 extraordinary remedy, except with respect to temporary restraining orders;

17 (8) All judgments or orders refusing applications for dissolution of corporations created
 18 by the superior courts;

19 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a
 20 will; ~~and~~

21 (10) All judgments or orders entered pursuant to subsection (c) of Code Section
 22 17-10-6.2; and

23 (11) All judgments or orders in child custody cases including, but not limited to,
 24 awarding or refusing to change child custody or holding or declining to hold persons in
 25 contempt of such child custody judgment or orders."

26 SECTION 3.

27 Said article is further amended by revising subsection (a) of Code Section 5-6-35, relating
 28 to cases requiring application for appeal, as follows:

29 "(a) Appeals in the following cases shall be taken as provided in this Code section:

30 (1) Appeals from decisions of the superior courts reviewing decisions of the State Board
 31 of Workers' Compensation, the State Board of Education, auditors, state and local
 32 administrative agencies, and lower courts by certiorari or de novo proceedings; provided,
 33 however, that this provision shall not apply to decisions of the Public Service
 34 Commission and probate courts and to cases involving ad valorem taxes and
 35 condemnations;

- 1 (2) Appeals from judgments or orders in divorce, alimony, ~~child custody~~, and other
- 2 domestic relations cases including, but not limited to, granting or refusing a divorce or
- 3 temporary or permanent alimony, ~~awarding or refusing to change child custody~~, or
- 4 holding or declining to hold persons in contempt of such alimony ~~or child custody~~
- 5 judgment or orders;
- 6 (3) Appeals from cases involving distress or dispossessory warrants in which the only
- 7 issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;
- 8 (4) Appeals from cases involving garnishment or attachment, except as provided in
- 9 paragraph (5) of subsection (a) of Code Section 5-6-34;
- 10 (5) Appeals from orders revoking probation;
- 11 (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- 12 (7) Appeals, when separate from an original appeal, from the denial of an extraordinary
- 13 motion for new trial;
- 14 (8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion
- 15 to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief
- 16 upon a complaint in equity to set aside a judgment;
- 17 (9) Appeals from orders granting or denying temporary restraining orders;
- 18 (10) Appeals from awards of attorney’s fees or expenses of litigation under Code Section
- 19 9-15-14; ~~and~~
- 20 (11) Appeals from decisions of the state courts reviewing decisions of the magistrate
- 21 courts by de novo proceedings so long as the subject matter is not otherwise subject to
- 22 a right of direct appeal; and
- 23 (12) Appeals from orders terminating parental rights."

SECTION 4.

Code Section 9-11-133 of the Official Code of Georgia Annotated, relating to forms meeting requirements for civil case filing and disposition, is amended by revising subsections (c) and (e) as follows:

"(c) *Domestic Relations Case Filing Information Form.*

DOMESTIC RELATIONS CASE FILING
INFORMATION FORM

Court

___ Superior

County _____

Date filed _____
mm-dd-yyyy

Docket no. _____

1 Plaintiff(s)
2 (last, suffix, first, middle initial, maiden)

Defendant(s)
(last, suffix, first, middle initial, maiden)

3 1. _____
4 2. _____

1. _____
2. _____

5 Plaintiff/Petitioner's attorney
6 _____

___ Pro Se

7 Bar #
8 _____

9 CONTEMPT

___ Contempt - Custody,
and/or Visitation, or
Parenting Time

10 CHECK CASE TYPE:
11 (one or more)

___ Contempt - Child
Support and Alimony
___ Contempt - Child Support
___ Contempt - Alimony
___ Other Domestic Contempt

12 ___ Divorce (includes
13 annulment)
14 Contested? Yes No

15 Child Custody
16 issue? Yes No

17 Child Support
18 issue? Yes No

19 FAMILY VIOLENCE

20 ___ Separate Maintenance

Additional information -

21 ___ Adoption

Ex Parte Relief

22 ___ Paternity (includes
23 legitimation)

_____ Did the initial pleading

24 ___ Interstate Support

include a request for

25 ___ Enforcement Action

relief:

26 ___ Domestication of

1. From alleged family

27 ___ Foreign Custody Decree

violence? ___ Yes ___ No

28 ___ Family Violence Act

2. Was ex parte relief

29 ___ Petition

requested? ___ Yes ___ No

30 31 32 3. Was ex parte relief

granted? ___ Yes ___ No

1	MODIFICATION	<u>OTHER</u>
2	___ Modification - Custody,	<u>Have the parties agreed to</u>
3	<u>and/or Visitation, or</u>	<u>binding arbitration? Yes No</u>
4	<u>Parenting Time</u>	<u>Have the parties reached</u>
5	<u>Does the modification</u>	<u>a custodial agreement? Yes No</u>
6	<u>include a parent</u>	<u>If yes, is custody:</u>
7	<u>selection by a child</u>	<u>Joint custody</u>
8	<u>who is at least 14</u>	<u>Joint legal custody</u>
9	<u>years of age? Yes No</u>	<u>Joint physical custody</u>
10	___ Modification - Child	<u>Sole custody to: _____</u>
11	Support and Alimony	<u>Financial affidavit</u>
12	___ Modification - Child	<u>submitted? Yes No</u>
13	Support	<u>Child support forms</u>
14	___ Modification - Alimony	<u>submitted? Yes No"</u>

15 "(e) *Domestic Relations Case Final Disposition Information form.*

16 DOMESTIC RELATIONS CASE FINAL
 17 DISPOSITION INFORMATION FORM

18 Court
 19 ___ Superior County _____ Date _____
 20 disposed mm-dd-yyyy
 21 Docket no. _____

22 Reporting party _____
 23 (Name) (Title)
 24 Name of plaintiff/petitioner(s)
 25 _____
 26 Plaintiff/petitioner's attorney
 27 _____ Pro Se
 28 Bar #
 29 _____
 30 Name of defendant/respondent(s)
 31 _____

1 Defendant/respondent's attorney

2 _____ Pro Se

3 Bar #

4 _____

RELIEF GRANTED (Check all that apply)

1. ___ Ex Parte Relief

2. ___ Temporary Relief

3. ___ Final Relief

9 TYPE OF DISPOSITION

10 1. Dismissed Without
11 Final Order

A. ___ Divorce/Annulment/
Separate Maintenance

12 A. ___ Voluntary (by
13 parties)

B. ___ Child Custody

(i) Parenting plan
included? _____ Yes _____ No

14 B. ___ Involuntary (by
15 court)

(ii) Custodial arrangement:

16 2. ___ Pretrial Settlement

Joint custody

17 3. ___ Judgment on the
18 Pleadings

Joint legal custody

Joint physical custody

19 4. ___ Summary Judgment

Sole custody

20 5. ___ Trial

to: _____

21 A. Bench Trial

(iii) Fourteen year old

22 B. Jury Trial

made parental

23 1. ___ Dismissal after
24 jury selected

selection? _____ Yes _____ No

25 2. ___ Settlement
26 during trial

C. Visitation or parenting time

Approximate percentage

of parenting time per

year (or number of days)

27 3. ___ Judgment on
28 Verdict

for: _____ Mother _____ Father

29 4. ___ Directed
30 Verdict or

Parenting time was

contested? _____ Yes _____ No

31 JNOV

D. ___ Child Support

32 (i) Forms attached? _____ Yes _____ No

33 E. ___ Legitimation/

34 Paternity

35 F. ___ Alimony

1 ~~(A) The court shall consider as primary the safety and well-being of the child and of~~
 2 ~~the parent who is the victim of family violence;~~

3 ~~(B) The court shall consider the perpetrator's history of causing physical harm, bodily~~
 4 ~~injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to~~
 5 ~~another person;~~

6 ~~(C) If a parent is absent or relocates because of an act of domestic violence by the other~~
 7 ~~parent, such absence or relocation for a reasonable period of time in the circumstances~~
 8 ~~shall not be deemed an abandonment of the child or children for the purposes of~~
 9 ~~custody determination; and~~

10 ~~(D) The court shall not refuse to consider relevant or otherwise admissible evidence~~
 11 ~~of acts of family violence merely because there has been no previous finding of family~~
 12 ~~violence. The court may, in addition to other appropriate actions, order supervised~~
 13 ~~visitation pursuant to Code Section 19-9-7.~~

14 ~~(3)(A) In all cases in which the child has reached the age of 14 years, the child shall~~
 15 ~~have the right to select the parent with whom he or she desires to live. The child's~~
 16 ~~selection shall be controlling, unless the parent so selected is determined not to be a fit~~
 17 ~~and proper person to have the custody of the child.~~

18 ~~(B) In all cases in which the child has reached the age of at least 11 but not 14 years,~~
 19 ~~the court shall consider the desires, if any, and educational needs of the child in~~
 20 ~~determining which parent shall have custody. The court shall have complete discretion~~
 21 ~~in making this determination, and the child's desires are not controlling. The court~~
 22 ~~shall further have broad discretion as to how the child's desires are to be considered,~~
 23 ~~including through the report of a guardian ad litem. The best interest of the child~~
 24 ~~standard shall be controlling.~~

25 ~~(C) The desire of a child who has reached the age of 11 years but not 14 years shall~~
 26 ~~not, in and of itself, constitute a material change of conditions or circumstances in any~~
 27 ~~action seeking a modification or change in the custody of that child.~~

28 ~~(D) The court may issue an order granting temporary custody to the selected parent for~~
 29 ~~a trial period not to exceed six months regarding the custody of a child who has reached~~
 30 ~~the age of at least 11 years where the judge hearing the case determines such a~~
 31 ~~temporary order is appropriate.~~

32 ~~(b) In any case in which a judgment awarding the custody of a minor has been entered, on~~
 33 ~~the motion of any party or on the motion of the court, that portion of the judgment effecting~~
 34 ~~visitation rights between the parties and their minor children may be subject to review and~~
 35 ~~modification or alteration without the necessity of any showing of a change in any material~~
 36 ~~conditions and circumstances of either party or the minor, provided that the review and~~
 37 ~~modification or alteration shall not be had more often than once in each two-year period~~

~~following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the court to enter a judgment relating to the custody of a minor in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the minor.~~

~~(c)(1) In any case in which a judgment awarding the custody of a minor has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of ordering the custodial parent to notify the court of any changes in the residence of the child.~~

~~(2) In any case in which visitation rights have been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights.~~

~~(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.~~

~~(d) In the event of any conflict between this Code section and Article 3 of this chapter, Article 3 shall apply.~~

(a) Except when a parent seeks emergency relief for family violence pursuant to Code Section 19-13-3 or 19-13-4, in all cases in which the custody of any child is at issue between the parents, each parent shall prepare a parenting plan or the parties may jointly submit a parenting plan. It shall be in the judge's discretion as to when a party shall be required to submit a parenting plan to the judge. A parenting plan shall be required for permanent custody and modification actions and in the judge's discretion may be required for temporary hearings. The final decree in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan.

(b)(1) Unless otherwise ordered by the judge, a parenting plan shall include the following:

(A) A recognition that a close and continuing parent-child relationship and continuity in the child's life will be in the child's best interest;

1 (B) A recognition that the child's needs will change and grow as the child matures and
2 demonstrate that the parents will make an effort to parent that takes this issue into
3 account so that future modifications to the parenting plan are minimized;

4 (C) A recognition that a parent with physical custody will make day-to-day decisions
5 and emergency decisions while the child is residing with such parent; and

6 (D) That both parents will have access to all of the child's records and information,
7 including, but not limited to, education, health, extracurricular activities, and religious
8 communications.

9 (2) Unless otherwise ordered by the judge, or agreed upon by the parties, a parenting
10 plan shall include, but not be limited to:

11 (A) Where and when a child will be in each parent's physical care, designating where
12 the child will spend each day of the year;

13 (B) How holidays, birthdays, vacations, school breaks, and other special occasions will
14 be spent with each parent including the time of day that each event will begin and end;

15 (C) Transportation arrangements including how the child will be exchanged between
16 the parents, the location of the exchange, how the transportation costs will be paid, and
17 any other matter relating to the child spending time with each parent;

18 (D) Whether supervision will be needed for any parenting time and, if so, the
19 particulars of the supervision;

20 (E) An allocation of decision-making authority to one or both of the parents with
21 regard to the child's education, health, extracurricular activities, and religious
22 upbringing, and if the parents agree the matters should be jointly decided, how to
23 resolve a situation in which the parents disagree on resolution; and

24 (F) What, if any, limitations will exist while one parent has physical custody of the
25 child in terms of the other parent contacting the child and the other parent's right to
26 access education, health, extracurricular activity, and religious information regarding
27 the child.

28 (c) If the parties cannot reach agreement on a permanent parenting plan, each party shall
29 file and serve a proposed parenting plan on or before the date set by the judge. Failure to
30 comply with filing a parenting plan may result in the judge adopting the plan of the
31 opposing party if the judge finds such plan to be in the best interests of the child.

32 19-9-1.1.

33 In all proceedings under this article, it shall be expressly permissible for the parents of a
34 child to agree to binding arbitration on the issue of child custody and matters relative to
35 visitation, parenting time, and a parenting plan. The parents may select their arbiter and
36 decide which issues will be resolved in binding arbitration. The arbiter's decisions shall

1 be incorporated into a final decree awarding child custody unless the judge makes specific
 2 written factual findings that under the circumstances of the parents and the child the
 3 arbiter's award would not be in the best interests of the child. In its judgment, the judge
 4 may supplement the arbiter's decision on issues not covered by the binding arbitration.

5 19-9-1.2.

6 Pursuant to Code Section 9-11-3, and in addition to the filing requirements contained in
 7 Code Section 19-6-15, in all proceedings under this article the plaintiff shall file a domestic
 8 relations case filing information form as set forth in Code Section 9-11-133.

9 19-9-2.

10 Upon the death of either parent, the survivor is entitled to custody of the child; provided,
 11 however, that the ~~court~~ judge, upon petition, may exercise discretion as to the custody of
 12 the child, looking solely to the child's best interest and welfare.

13 19-9-3.

14 (a)(1) In all cases in which the custody of any ~~minor child or children~~ is at issue between
 15 the parents, there shall be no prima-facie right to the custody of the child ~~or children~~ in
 16 the father or mother. There shall be no presumption in favor of any particular form of
 17 custody, legal or physical, nor in favor of either parent. Joint custody may be considered
 18 as an alternative form of custody by the judge and the judge at any temporary or
 19 permanent hearing may grant sole custody, joint custody, joint legal custody, or joint
 20 physical custody as appropriate.

21 (2) The ~~court~~ judge hearing the issue of custody, ~~in exercise of its sound discretion, may~~
 22 shall make a determination of custody of a child and such matter shall not be decided by
 23 a jury. The judge may take into consideration all the circumstances of the case, including
 24 the improvement of the health of the party seeking a change in custody provisions, in
 25 determining to whom custody of the child ~~or children~~ should be awarded. The duty of
 26 the ~~court~~ judge in all such cases shall be to exercise its discretion to look to and determine
 27 solely what is for the best interest of the child ~~or children~~ and what will best promote
 28 ~~their~~ the child's welfare and happiness and to make ~~its~~ his or her award accordingly.

29 (3) In determining the best interests of the child, the judge may consider any relevant
 30 factor including, but not limited to:

31 (A) The love, affection, bonding, and emotional ties existing between each parent and
 32 the child;

33 (B) The love, affection, bonding, and emotional ties existing between the child and his
 34 or her siblings, half siblings, and stepsiblings and the residence of such other children;

1 (C) The capacity and disposition of each parent to give the child love, affection, and
 2 guidance and to continue the education and rearing of the child;

3 (D) Each parent's knowledge and familiarity of the child and the child's needs;

4 (E) The capacity and disposition of each parent to provide the child with food,
 5 clothing, medical care, day-to-day needs, and other necessary basic care, with
 6 consideration made for the potential payment of child support by the other parent;

7 (F) The home environment of each parent considering the promotion of nurturance and
 8 safety of the child rather than superficial or material factors;

9 (G) The importance of continuity in the child's life and the length of time the child has
 10 lived in a stable, satisfactory environment and the desirability of maintaining
 11 continuity;

12 (H) The stability of the family unit of each of the parents and the presence or absence
 13 of each parent's support systems within the community to benefit the child;

14 (I) The mental and physical health of each parent;

15 (J) Each parent's involvement, or lack thereof, in the child's education, social, and
 16 extracurricular activities;

17 (K) Each parent's employment schedule and the related flexibility or limitations, if
 18 any, of a parent to care for the child;

19 (L) The home, school, and community record and history of the child, as well as any
 20 health or educational special needs of the child;

21 (M) Each parent's past performance and relative abilities for future performance of
 22 parenting responsibilities;

23 (N) The willingness and ability of each of the parents to facilitate and encourage a
 24 close and continuing parent-child relationship between the child and the other parent,
 25 consistent with the best interest of the child;

26 (O) Any recommendation by a court appointed custody evaluator or guardian ad litem;

27 (P) Any evidence of family violence or sexual, mental, or physical child abuse or
 28 criminal history of either parent; and

29 (Q) Any evidence of substance abuse by either parent.

30 (4) In addition to other factors that a court judge may consider in a proceeding in which
 31 the custody of a child or visitation or parenting time by a parent is at issue and in which
 32 the court judge has made a finding of family violence:

33 (A) The court judge shall consider as primary the safety and well-being of the child
 34 and of the parent who is the victim of family violence;

35 (B) The court judge shall consider the perpetrator's history of causing physical harm,
 36 bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or
 37 assault to another person;

1 (C) If a parent is absent or relocates because of an act of domestic violence by the other
 2 parent, such absence or relocation for a reasonable period of time in the circumstances
 3 shall not be deemed an abandonment of the child ~~or children~~ for the purposes of
 4 custody determination; and

5 (D) The ~~court~~ judge shall not refuse to consider relevant or otherwise admissible
 6 evidence of acts of family violence merely because there has been no previous finding
 7 of family violence. The ~~court~~ judge may, in addition to other appropriate actions, order
 8 supervised visitation or parenting time pursuant to Code Section 19-9-7.

9 ~~(4)~~(5) In all custody cases in which the child has reached the age of 14 years, the child
 10 shall have the right to select the parent with whom he or she desires to live. The child's
 11 selection for purposes of custody shall be ~~controlling~~ presumptive unless the parent so
 12 selected is determined not to be a fit and proper person to have the custody of the child
 13 in the best interests of the child. The parental selection by a child who has reached the
 14 age of 14 may, in and of itself, constitute a material change of condition or circumstance
 15 in any action seeking a modification or change in the custody of that child; provided,
 16 however, that such selection may only be made once within a period of two years from
 17 the date of the previous selection and the best interests of the child standard shall apply.

18 ~~(4.1)~~(6) In all custody cases in which the child has reached the age of ~~at least~~ 11 but not
 19 14 years, the ~~court~~ judge shall consider the desires and educational needs of the child in
 20 determining which parent shall have custody. ~~The child's selection shall not be~~
 21 ~~controlling. The best interests of the child standard shall apply. The judge shall have~~
 22 complete discretion in making this determination, and the child's desires shall not be
 23 controlling. The judge shall further have broad discretion as to how the child's desires
 24 are to be considered, including through the report of a guardian ad litem. The best
 25 interests of the child standard shall be controlling. The parental selection of a child who
 26 has reached the age of 11 but not 14 years shall not, in and of itself, constitute a material
 27 change of condition or circumstance in any action seeking a modification or change in
 28 the custody of that child. The judge may issue an order granting temporary custody to
 29 the selected parent for a trial period not to exceed six months regarding the custody of a
 30 child who has reached the age of 11 but not 14 years where the judge hearing the case
 31 determines such a temporary order is appropriate.

32 ~~(5) Joint custody, as defined by Code Section 19-9-6, may be considered as an~~
 33 ~~alternative form of custody by the court. This provision allows a court at any temporary~~
 34 ~~or permanent hearing to grant sole custody, joint custody, joint legal custody, or joint~~
 35 ~~physical custody where appropriate.~~

36 ~~(6)~~(7) The ~~court~~ judge is authorized to order a psychological custody evaluation of the
 37 family or an independent medical evaluation. In addition to the privilege afforded a

1 witness, neither a court appointed custody evaluator nor a court appointed guardian ad
 2 litem shall be subject to civil liability resulting from any act or failure to act in the
 3 performance of his or her duties unless such act or failure to act was in bad faith.

4 (8) If requested by any party on or before the close of evidence in a contested hearing,
 5 the permanent court order awarding child custody shall set forth specific findings of fact
 6 as to the basis for the judge's decision in making an award of custody including any
 7 relevant factor relied upon by the judge as set forth in paragraph (3) of this subsection.
 8 Such order shall set forth in detail why the court awarded custody in the manner set forth
 9 in the order and, if joint legal custody is awarded, a manner in which final decision
 10 making on matters affecting the child's education, health, extracurricular activities,
 11 religion, and any other important matter shall be decided. Such order shall be filed within
 12 30 days of the final hearing in the custody case, unless extended by order of the judge
 13 with the agreement of the parties.

14 (b) In any case in which a judgment awarding the custody of a minor child has been
 15 entered, on the motion of any party or on the motion of the court judge, that portion of the
 16 judgment effecting visitation rights between the parties and their minor children child or
 17 parenting time may be subject to review and modification or alteration without the
 18 necessity of any showing of a change in any material conditions and circumstances of
 19 either party or the minor child, provided that the review and modification or alteration shall
 20 not be had more often than once in each two-year period following the date of entry of the
 21 judgment. However, this subsection shall not limit or restrict the power of the court judge
 22 to enter a judgment relating to the custody of a minor child in any new proceeding based
 23 upon a showing of a change in any material conditions or circumstances of a party or the
 24 minor child.

25 (c) In the event of any conflict between this Code section and any provision of Article 3
 26 of this chapter, Article 3 shall apply.

27 (d) It is the express policy of this state to encourage that a minor child has continuing
 28 contact with parents and grandparents who have shown the ability to act in the best interest
 29 of the child and to encourage parents to share in the rights and responsibilities of raising
 30 their children child after such parents have separated or dissolved their marriage or
 31 relationship.

32 (e) Upon the filing of an action for a change of child custody, the court judge may in its
 33 his or her discretion change the terms of custody on a temporary basis pending final
 34 judgment on such issue. Any such award of temporary custody shall not constitute an
 35 adjudication of the rights of the parties.

36 (f)(1) In any case in which a judgment awarding the custody of a child has been entered,
 37 the court entering such judgment shall retain jurisdiction of the case for the purpose of

1 ordering the custodial parent to notify the court of any changes in the residence of the
 2 child.

3 (2) In any case in which visitation rights or parenting time has been provided to the
 4 noncustodial parent and the court orders that the custodial parent provide notice of a
 5 change in address of the place for pickup and delivery of the child for visitation or
 6 parenting time, the custodial parent shall notify the noncustodial parent, in writing, of any
 7 change in such address. Such written notification shall provide a street address or other
 8 description of the new location for pickup and delivery so that the noncustodial parent
 9 may exercise such parent's visitation rights or parenting time.

10 (3) Except where otherwise provided by court order, in any case under this subsection
 11 in which a parent changes his or her residence, he or she must give notification of such
 12 change to the other parent and, if the parent changing residence is the custodial parent,
 13 to any other person granted visitation rights or parenting time under this title or a court
 14 order. Such notification shall be given at least 30 days prior to the anticipated change of
 15 residence and shall include the full address of the new residence.

16 (g) Except as provided in Code Section 19-6-2, and in addition to the attorney's fee
 17 provisions contained in Code Section 19-6-15, the judge may order reasonable attorney's
 18 fees and expenses of litigation, experts, and the child's guardian ad litem and other costs
 19 of the child custody action and pretrial proceedings to be paid by the parties in proportions
 20 and at times determined by the judge. Attorney's fees may be awarded at both the
 21 temporary hearing and the final hearing. A final judgment shall include the amount
 22 granted, whether the grant is in full or on account, which may be enforced by attachment
 23 for contempt of court or by writ of fieri facias, whether the parties subsequently reconcile
 24 or not. An attorney may bring an action in his or her own name to enforce a grant of
 25 attorney's fees made pursuant to this subsection.

26 (h) In addition to filing requirements contained in Code Section 19-6-15, upon the
 27 conclusion of any proceeding under this article, the domestic relations final disposition
 28 form as set forth in Code Section 9-11-133 shall be filed.

29 19-9-4.

30 (a) On motion of either party in any action or proceeding involving determination of the
 31 award of child custody between parents of the child, when such motion contains a specific
 32 recitation of actual abuse, neglect, or other overt acts which have adversely affected the
 33 health and welfare of the child, the ~~court~~ judge may direct the appropriate family and
 34 children services agency or any other appropriate entity to investigate the home life and
 35 home environment of each of the parents. In any action or proceeding involving
 36 determination of the award of child custody between parents of the child when during such

1 proceedings a specific recitation of actual abuse, neglect, or other overt acts which have
 2 adversely affected the health and welfare of the child has been made the ~~court~~ judge shall
 3 also have authority on ~~its~~ his or her own motion to order such an investigation if in the
 4 ~~court's~~ judge's opinion the investigation would be useful in determining placement or
 5 custody of the child. The ~~court~~ judge may also direct either party to pay to the agency the
 6 reasonable cost, or any portion thereof, of the investigation. The report of the investigation
 7 will be made to the ~~court~~ judge directing the investigation. Any report made at the
 8 direction of the ~~court~~ judge shall be made available to either or both parties for a reasonable
 9 period of time prior to the proceedings at which any temporary or permanent custody is to
 10 be determined. Both parties shall have the right to confront and cross-examine the person
 11 or persons who conducted the investigation or compiled the report if adequate and legal
 12 notice is given.

13 (b) This Code section shall apply only with respect to actions or proceedings in which the
 14 issue of child custody is contested; and this Code section is not intended to alter or repeal
 15 Code Sections 49-5-40 through 49-5-44.

16 19-9-5.

17 (a) In all proceedings under this article between parents, it shall be expressly permissible
 18 for the parents of a ~~minor~~ child to present to the ~~court~~ judge an agreement respecting any
 19 and all issues concerning custody of the ~~minor~~ child. As used in this Code section, the term
 20 'custody' shall include, without limitation, joint custody as such term is defined in Code
 21 Section 19-9-6. As used in this Code section, the term 'custody' shall not include payment
 22 of child support.

23 (b) The ~~court~~ judge shall ratify the agreement and make such agreement a part of the
 24 ~~court's~~ judge's final judgment in the proceedings unless the ~~court~~ judge makes specific
 25 written factual findings as a part of the final judgment that under the circumstances of the
 26 parents and the child in such agreement that the agreement would not be in the best
 27 interests of the child. The ~~court~~ judge shall not refuse to ratify such agreement and to make
 28 such agreement a part of the final judgment based solely upon the parents' choice to use
 29 joint custody as a part of such agreement.

30 (c) In ~~its~~ his or her judgment, the ~~court~~ judge may supplement the agreement on issues not
 31 covered by such agreement.

32 19-9-6.

33 As used in this article, the term:

1 (1) 'Joint custody' means joint legal custody, joint physical custody, or both joint legal
 2 custody and joint physical custody. In making an order for joint custody, the court judge
 3 may order joint legal custody without ordering joint physical custody.

4 (2) 'Joint legal custody' means both parents have equal rights and responsibilities for
 5 major decisions concerning the child, including the child's education, health care,
 6 extracurricular activities, and religious training; provided, however, that the court judge
 7 may designate one parent to have sole power to make certain decisions while both parents
 8 retain equal rights and responsibilities for other decisions.

9 (3) 'Joint physical custody' means that physical custody is shared by the parents in such
 10 a way as to assure the child of substantially equal time and contact with both parents.

11 (4) 'Sole custody' means a person, including, but not limited to, a parent, has been
 12 awarded permanent custody of a child by a court order. Unless otherwise provided by
 13 court order, the person awarded sole custody of a child shall have the rights and
 14 responsibilities for major decisions concerning the child, including the child's education,
 15 health care, extracurricular activities, and religious training, and the noncustodial parent
 16 shall have the right to visitation or parenting time. A person who has not been awarded
 17 custody of a child by court order shall not be considered as the sole legal custodian while
 18 exercising visitation rights or parenting time.

19 19-9-7.

20 (a) A court judge may award visitation by or parenting time to a parent who committed
 21 one or more acts involving family violence only if the court judge finds that adequate
 22 provision for the safety of the child and the parent who is a victim of family violence can
 23 be made. In a visitation or parenting time order, a court judge may:

24 (1) Order an exchange of a child to occur in a protected setting;

25 (2) Order visitation or parenting time supervised by another person or agency;

26 (3) Order the perpetrator of family violence to attend and complete, to the satisfaction
 27 of the court judge, a certified family violence intervention program for perpetrators as
 28 defined in Article 1A of Chapter 13 of this title as a condition of the visitation or
 29 parenting time;

30 (4) Order the perpetrator of family violence to abstain from possession or consumption
 31 of alcohol, marijuana, or any Schedule I controlled substance listed in Code Section
 32 16-13-25 during the visitation or parenting time and for 24 hours preceding the visitation
 33 or parenting time;

34 (5) Order the perpetrator of family violence to pay a fee to defray the costs of supervised
 35 visitation or parenting time;

36 (6) Prohibit overnight visitation or parenting time;

1 (7) Require a bond from the perpetrator of family violence for the return and safety of
2 the child; and

3 (8) Impose any other condition that is deemed necessary to provide for the safety of the
4 child, the victim of family violence, or another family or household member.

5 (b) Whether or not visitation or parenting time is allowed, the ~~court~~ judge may order the
6 address of the child and the victim of family violence to be kept confidential.

7 (c) The ~~court~~ judge shall not order an adult who is a victim of family violence to attend
8 joint counseling with the perpetrator of family violence as a condition of receiving custody
9 of a child or as a condition of visitation or parenting time.

10 (d) If a ~~court~~ judge allows a family or household member to supervise visitation or
11 parenting time, the ~~court~~ judge shall establish conditions to be followed during visitation
12 or parenting time."

13 SECTION 6.

14 Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for
15 legitimation of a child, is amended by revising subsection (f.1) as follows:

16 "(f.1) The petition for legitimation may also include claims for visitation, parenting time,
17 or custody. If such claims are raised in the legitimation action, the court may order, in
18 addition to legitimation, visitation, parenting time, or custody based on the best interests
19 of the child standard. In a case involving allegations of family violence, the provisions of
20 paragraph ~~(2)~~ (4) of subsection (a) of Code Section ~~19-9-1~~ 19-9-3 shall also apply."

21 SECTION 7.

22 Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, is
23 amended by striking subsection (a) of Code Section 19-5-1, relating to granting total divorces
24 and referral for alternative dispute resolution, and inserting in lieu thereof the following:

25 "(a) Total divorces may be granted in proper cases by the superior court; provided,
26 however, that the parties shall comply with Code Section 19-5-1.1 if it is applicable. Unless
27 an issuable defense is filed as provided by law and a jury trial is demanded in writing by
28 either party on or before the call of the case for trial, in all petitions for divorce and
29 permanent alimony the judge shall hear and determine all issues of law and of fact and any
30 other issues raised in the pleadings."

31 SECTION 8.

32 This Act shall become effective on January 1, 2008, and shall apply to all child custody
33 proceedings and modifications of child custody filed on or after January 1, 2008.

1

SECTION 9.

2 All laws and parts of laws in conflict with this Act are repealed.