

Senate Bill 186

By: Senators Tippins of the 37th, Millar of the 40th, Brass of the 28th, Sims of the 12th, Rhett of the 33rd and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 20-3-519.5 of the Official Code of Georgia Annotated, relating to
 2 eligibility requirements for a HOPE grant, so as to provide that students who earned a high
 3 school diploma through certain dual credit coursework are eligible for a HOPE grant toward
 4 an associate degree; to amend Chapter 1 of Title 20 of the Official Code of Georgia
 5 Annotated, relating to general education provisions, so as to provide for a kinship caregiver
 6 to give legal consent in the form of an affidavit for a child residing with such kinship
 7 caregiver to receive educational services and medical services directly related to academic
 8 enrollment and to participate in curricular or extracurricular activities for which parental
 9 consent is usually required; to provide a short title; to provide for definitions; to provide that
 10 falsifying a kinship caregiver's affidavit shall constitute false swearing; to provide an
 11 affidavit form; to provide for related matters; to repeal conflicting laws; and for other
 12 purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Code Section 20-3-519.5 of the Official Code of Georgia Annotated, relating to eligibility
 16 requirements for a HOPE grant, is amended by adding a new subsection to read as follows:

17 "(a.1) Notwithstanding subsection (a) of this Code section, a student seeking an associate
 18 degree at a branch of the Technical College System of Georgia who received a high school
 19 diploma pursuant to Code Section 20-2-149.2 through completion of:

20 (1) A technical college diploma program and all postsecondary academic education and
 21 technical education and training prerequisites for any state, national, or industry
 22 occupational certifications or licenses required to work in the field; or

23 (2) At least two technical college certificate of credit programs in one specific career
 24 pathway and all postsecondary academic education and technical education and training
 25 prerequisites for any state, national, or industry occupational certifications or licenses
 26 required to work in the field as determined by the Technical College System of Georgia

27 shall be eligible for a HOPE grant as long as he or she meets the residency requirements
 28 set forth in subsection (a) of Code Section 20-3-519.1 and the requirements of
 29 paragraphs (1) and (2) of subsection (a) of this Code section. The HOPE grant shall be
 30 used to cover the cost of up to 30 degree hours to obtain an associate degree."

31 **SECTION 2.**

32 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general
 33 education provisions, is amended by enacting a new article to read as follows:

34 "ARTICLE 1A

35 20-1-14.

36 This article shall be known and may be cited as 'The Caregiver Educational Consent Act.'

37 20-1-15.

38 (a) As used in this article, the term:

39 (1) 'Child' means any individual under 18 years of age.

40 (2) 'Fictive kin' means an individual who is known to a child as a relative but is not in
 41 fact related by blood or marriage to such child and with whom such child has resided or
 42 had significant contact.

43 (3) 'Kinship caregiver' means a grandparent, great-grandparent, aunt, uncle, great aunt,
 44 great uncle, cousin, sibling, or fictive kin who has assumed responsibility for raising a
 45 child in an informal, noncustodial, or guardianship capacity upon the parents or legal
 46 custodians of such child:

47 (A) Losing or abdicating the ability to care for such child; or

48 (B) Being unable to ensure that the child will attend school for reasons, including, but
 49 not limited to:

50 (i) A parent or legal custodian being unable to provide care due to the death of a
 51 parent or legal custodian;

52 (ii) A serious illness or terminal illness of a parent or legal custodian;

53 (iii) The physical or mental condition of the parents or legal custodians such that
 54 proper care and supervision of the child cannot be provided;

55 (iv) The incarceration of a parent or legal custodian;

56 (v) The inability to locate the parents or legal custodians;

57 (vi) The loss or uninhabitability of the child's home as the result of a natural disaster;

58 or

59 (vii) A period of active military duty of the parents or legal custodians exceeding 24
 60 months.

61 (4) 'Legal custodian' means a person that has been awarded permanent custody of a child
 62 by court order.

63 (5) 'Parent' means the legal father or the legal mother of a child.

64 (6) 'Reasonable efforts' means actions that a reasonable individual would find sufficient
 65 to determine whether one conclusion is more likely than the other.

66 20-1-16.

67 (a) A kinship caregiver shall be authorized, on behalf of a child residing with the kinship
 68 caregiver, which child is not in the custody of the Division of Family and Children Services
 69 of the Department of Human Services, to give legal consent for such child to:

70 (1) Receive any educational services;

71 (2) Receive medical services directly related to academic enrollment; or

72 (3) Participate in any curricular or extracurricular activities

73 for which parental consent is usually required by executing the affidavit described in Code
 74 Section 20-1-18. The affidavit shall not be valid for more than one year after the date on
 75 which it is executed.

76 (b) Upon transmitting to a school an executed affidavit described in Code Section 20-1-18,
 77 the kinship caregiver shall serve as the school's point of contact for the child regarding
 78 truancy, discipline, and educational progress for as long as such affidavit shall continue to
 79 be in effect.

80 (c) The decision of a kinship caregiver to consent to or refuse educational services or
 81 medical services directly related to academic enrollment or any curricular or extracurricular
 82 activities for a child residing with the kinship caregiver shall be superseded by any
 83 contravening decision of a parent or a person having legal custody of the child, provided
 84 that the decision of the parent or legal custodian does not jeopardize the life, health, safety,
 85 or welfare of the child.

86 (d) Reasonable efforts shall be made by the kinship caregiver to locate at least one of the
 87 child's parents prior to the notarization and submission of the affidavit set forth in Code
 88 Section 20-1-18.

89 (e) Nothing in this Code section shall apply to, or give authority for, an abortion as
 90 provided in Code Section 15-11-682 or any other provision of law.

91

92 20-1-17.

93 (a) No person that acts in good faith reliance on a properly executed kinship caregiver's
 94 affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit,
 95 shall be subject to civil liability or criminal prosecution, or to professional disciplinary

96 procedure, for any action which would have been proper if the facts had been as they
 97 believed them to be. This subsection shall apply even if educational services or medical
 98 services directly related to academic enrollment or any curricular or extracurricular activities
 99 are rendered to a child in contravention of the wishes of the parent or legal custodian of such
 100 child; provided, however, that the person rendering the educational services or medical
 101 services directly related to academic enrollment or any curricular or extracurricular activities
 102 shall not have actual knowledge of the wishes of the parent or legal custodian.

103 (b) A person that relies on a properly executed kinship caregiver's affidavit has no
 104 obligation to make further inquiry or investigation. Nothing in this article shall relieve any
 105 person of responsibility for violations of other provisions of law, rules, or regulations.

106 (c) If a child ceases to reside with a kinship caregiver for a period in excess of 30 days,
 107 such kinship caregiver shall, not later than 30 days after such period, notify all parties to
 108 whom he or she has transmitted the affidavit or to whom he or she has caused the affidavit
 109 to be transmitted.

110 (d) Any individual who knowingly provides false information in executing the affidavit
 111 required by this article commits the offense of false swearing within the meaning of Code
 112 Section 16-10-71 and shall be subject to the penalties prescribed by such Code section.

113 20-1-18.

114 (a) A kinship caregiver's affidavit shall be invalid unless it substantially contains, in not
 115 less than ten-point boldface type or a reasonable equivalent thereof, the form set forth in
 116 subsection (b) of this Code section. The warning statement shall be enclosed in a box with
 117 three-point rule lines.

118 (b) The kinship caregiver's affidavit shall be substantially in the following form:

119 'KINSHIP CAREGIVER'S AFFIDAVIT

120 Use of this affidavit is authorized by O.C.G.A. Section 20-1-16.

121 INSTRUCTIONS: Please print clearly.

122 I hereby certify that the child named below lives in my home and I am 18 years of age
 123 or older.

124 1. Name of child: _____

125 2. Child's date of birth: _____

126 3. My full name (kinship caregiver giving authorization): _____

127 4. My home address: _____

128 5. I am a kinship caregiver.

129 6. I have assumed kinship caregiver status because of one or more of the following
130 circumstances (check at least one):

131 A parent being unable to provide care due to the death of the other parent;

132 A serious illness or terminal illness of a parent;

133 The physical or mental condition of the parent or the child such that proper care
134 and supervision of the child cannot be provided by the parent;

135 The incarceration of a parent;

136 The loss or uninhabitability of the child's home as the result of a natural disaster;

137 A period of active military duty of a parent exceeding 24 months; or

138 I am unable to locate a parent or parents at this time to notify them of my intended
139 authorization because (list reasons):

140 _____
141 _____.

142 7. Names of parent(s) or legal custodian(s): _____

143 8. Address of parent(s) or legal custodian(s): _____

144 9. Phone numbers and email addresses of parent(s) or legal custodian(s):
145 _____

146 10. Kinship caregiver's date of birth: _____

147 11. Kinship caregiver's State of Georgia driver's license number or identification card
148 number: _____

149 **WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE**
150 **ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE**
151 **BY A FINE, IMPRISONMENT, OR BOTH.**

152 I recognize that if I knowingly and willfully make a false statement in this affidavit, I will
153 be guilty of the crime of false swearing.

154 _____
155 (Kinship caregiver's signature)

156 _____
157 (Kinship caregiver's printed name)

159 Sworn to and subscribed
160 before me this _____
161 day of _____, _____.

162 _____
 163 Notary public (SEAL)
 164 My commission expires:_____.

165 NOTICES:

- 166 1. This declaration does not affect the rights of the named child's parent or legal
 167 guardian regarding the care, custody, and control of the child and does not mean that
 168 the kinship caregiver has legal custody of the child.
 169 2. A person that relies on this affidavit has no obligation to make any further inquiry
 170 or investigation.
 171 3. This affidavit is not valid for more than one year after the date on which it is
 172 executed.

173 ADDITIONAL INFORMATION:

174 TO KINSHIP CAREGIVERS:

- 175 1. If the child stops living with you for a period of more than 30 days, you are required
 176 to provide notice not later than 30 days after such period to anyone to whom you have
 177 given this affidavit as well as anyone of whom you have actual knowledge who
 178 received the affidavit from a third party.
 179 2. If you do not have the information in item 11 of the affidavit (State of Georgia
 180 driver's license or identification card), you must provide another form of identification
 181 such as your social security number.

182 TO SCHOOL OFFICIALS:

183 The school system may require additional reasonable evidence that the kinship
 184 caregiver resides at the address provided in item 4 of the affidavit.

185 TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

- 186 1. No person that acts in good faith reliance upon a kinship caregiver's affidavit to
 187 render educational services or medical services directly related to academic enrollment
 188 or any curricular or extracurricular activities, without actual knowledge of facts
 189 contrary to those stated in the affidavit, shall be subject to criminal prosecution or civil
 190 liability to any person, or subject to any professional disciplinary action, for such
 191 reliance if the applicable portions of the form are completed.
 192 2. This affidavit does not confer dependency for health care coverage purposes.'

193 20-1-19.

194 Nothing in this article shall be construed to supersede Article 4 of Chapter 9 of Title 19,
195 the 'Power of Attorney for the Care of a Minor Child Act.'"

196

SECTION 3.

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