

Senate Bill 134

By: Senators Cowsert of the 46th, Kirkpatrick of the 32nd, Kennedy of the 18th, Gooch of the 51st, Strickland of the 17th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to
2 provide that a child witness be deemed competent to testify without taking the oath; to allow
3 the use of narrative form medical reports in dependency and termination matters; to provide
4 for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
8 revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:
9 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all
10 proceedings involving dependency as defined by Code Section 15-11-2, in all proceedings
11 involving termination of parental rights under Article 4 of Chapter 11 of Title 15, and in
12 all criminal proceedings in which a child was a victim of or witness to any crime, the child
13 shall be competent to testify, and the child's credibility shall be determined as provided in
14 this chapter."

15

SECTION 2.

16 Said title is further amended by adding two new subsections to Code Section 24-8-826,
17 relating to medical reports in narrative form, to read as follows:

18 "24-8-826.

19 (a) Upon the trial of any civil proceeding involving injury or disease, any medical report
20 in narrative form which has been signed and dated by an examining or treating licensed
21 physician, dentist, orthodontist, podiatrist, physical or occupational therapist, doctor of
22 chiropractic, psychologist, advanced practice registered nurse, social worker, professional
23 counselor, or marriage and family therapist shall be admissible and received in evidence
24 insofar as it purports to represent the history, examination, diagnosis, treatment, prognosis,
25 or interpretation of tests or examinations, including the basis therefor, by the person signing
26 the report, the same as if that person were present at trial and testifying as a witness;
27 provided, however, that such report and notice of intention to introduce such report shall
28 first be provided to the adverse party at least 60 days prior to trial. A statement of the
29 qualifications of the person signing such report may be included as part of the basis for
30 providing the information contained therein, and the opinion of the person signing the
31 report with regard to the etiology of the injury or disease may be included as part of the
32 diagnosis. Any adverse party may object to the admissibility of any portion of the report,
33 other than on the ground that it is hearsay, within 15 days of being provided with the report.
34 Further, any adverse party shall have the right to cross-examine the person signing the
35 report and provide rebuttal testimony. The party tendering the report may also introduce
36 testimony of the person signing the report for the purpose of supplementing the report or
37 otherwise.

38 (b) In all juvenile dependency adjudications under Article 3 of Chapter 11 of Title 15
39 involving injury or disease, any medical report in narrative form as described in subsection
40 (a) of this Code section and notice of intention to introduce such report shall first be
41 provided to the adverse party at least five days prior to the adjudication hearing. Any

42 adverse party may object to the admissibility of any portion of the report, other than on the
43 ground that it is hearsay, within three days of being provided with the report. All other
44 provisions contained in subsection (a) of this Code section concerning medical reports in
45 narrative form shall be applicable to juvenile dependency cases.

46 (c) In all termination of parental rights hearings under Article 4 of Chapter 11 of Title 15
47 involving injury or disease, any medical report in narrative form as described in subsection
48 (a) of this Code section and a notice of intention to introduce such report shall first be
49 provided to the adverse party at least 15 days prior to the adjudication hearing. Any
50 adverse party may object to the admissibility of any portion of the report, other than on the
51 ground that it is hearsay, within seven days of being provided with such report. All other
52 provisions contained in subsection (a) of this Code section concerning medical reports in
53 narrative form shall be applicable to parental rights hearings.

54 ~~(b)~~(d) The medical narrative shall be presented to the jury as depositions are presented to
55 the jury and shall not go out with the jury as documentary evidence."

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SECTION 3.

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