

Legal Aspects of Child Welfare in North Carolina Course Attendance Preparation



Dear *Legal Aspects of Child Welfare in North Carolina* Participant,

Because a printed participant workbook (reference manual) will not be available at the training event, you must choose one of the two options below prior to attending *Legal Aspects of Child Welfare in North Carolina*:


OPTION A: Review, print, and bring this entire workbook to first day of training. Total of 336 pages (if printed double sided = 168).

OR

OPTION B: Follow the steps below to save this workbook to your laptop computer (no tablets) and bring it to the first day of training:

Step 1: Make sure you have accessed ncswLearn.org via Internet Explorer  or Safari . Accessing the workbook with any other web browser will interfere with the formatting and bookmarking of the file. You **must** use Adobe Reader version XI (11) or Adobe Reader DC (Document Cloud) or higher. To download Adobe Reader, go to: <https://get.adobe.com/reader/>

Step 2: Saving this workbook to your laptop computer (no tablets):

- a. This workbook is a PDF fillable form. That means that you are able to type your information and responses directly in to the highlighted fields in this workbook. **However, you must save this file to your computer before entering any information in the fillable fields.**
- b. To save this workbook:
click on the save icon  (if displayed) OR select FILE (on top menu left corner)
SAVE AS a PDF file
- c. When saving your file you must add your first and last name to the file name (i.e. **LegalAspects_final_1116-JOHN SMITH.pdf**) and save it to your computer.
- d. **Now close this screen at the red "X" in the upper right corner.**

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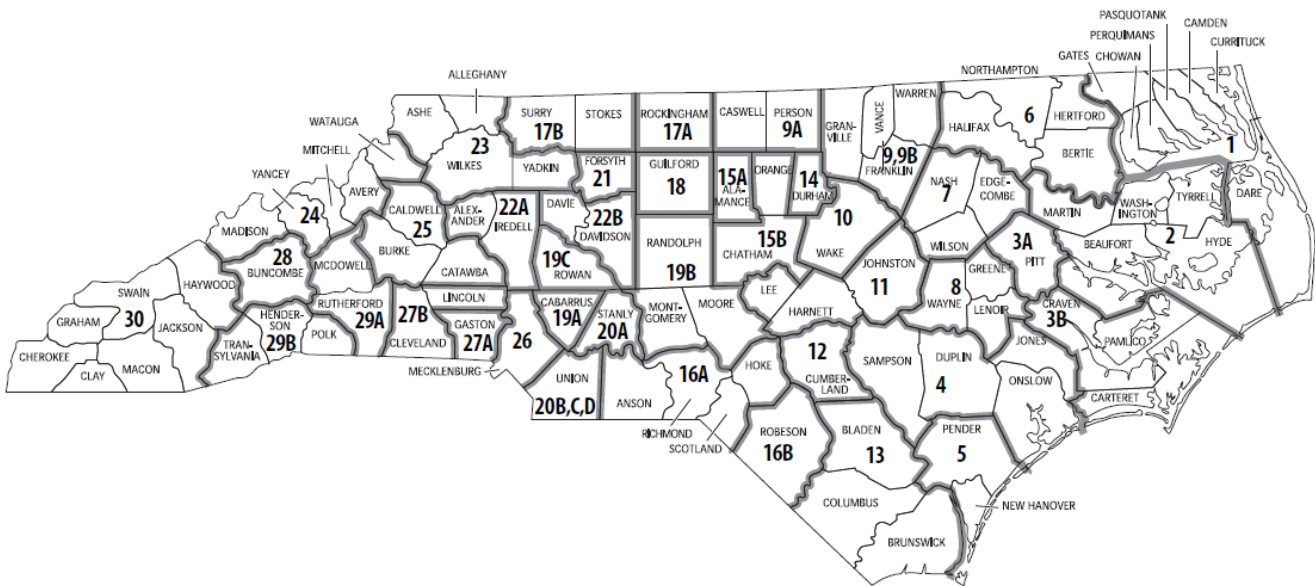
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- b. On the top menu select the option "Help"
- c. A dialog box will open on your screen, then click on the option "About Adobe Reader"
- d. The version of Adobe Reader will be listed. *(If you have version (10) X or lower you will need to install for free a higher version of Adobe Reader. If you need your agency's IT help/authorization please contact them immediately.)*

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Legal Aspects of Child Welfare



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in North Carolina

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Legal Aspects of Child Welfare in North Carolina

Originally Developed and Written by:

Joyce G. Reed, JD, LLM

East Carolina University

School of Social Work and Criminal Justice Studies

Contributors:

Susan Boyette, Rebecca Brigham, Sara Davis, David Gordon, Kella Hatcher, Rebecca Huffman, Bill Griffin, Mary Mallory, Jane Malpass, Ilene Nelson, Myra Powell, Connie Polk, Kirk Randleman, Jane Shooter, Chris Z. Sinha, Jane Thompson, and many county DSS workers, supervisors, directors, attorneys, and others who were always willing to provide information and assistance.

**A joint product of the North Carolina Division of Social Services and
the Partnership for Human Services.**

Revised and Updated by:

Angenette Stephenson, JD, MSW • Natalie Bacon, JD

Jordan Spanner, BSW, Legal Intern

Office of the North Carolina Attorney General

Holly McNeill

North Carolina Division of Social Services

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Competencies & Learning Objectives

Competency	Learning Objectives
<p>A. Knows applicable rules of evidence, is able to prepare testimony, and can testify and respond to cross examination appropriately and effectively in juvenile court hearings.</p>	<p>A1: Using a structured case review, demonstrate the ability to strengthen documentation of reasonable efforts.</p> <p>A2: Using an interactive supervisory scenario, demonstrate the ability to prepare staff for court hearings.</p> <p>A3: Explain the caseworker's role and responsibilities in juvenile court to a new child welfare worker.</p>
<p>B. Can apply the relevant federal, state and local laws, policies, procedures and best practice standards related to their area of practice, and understands how these support practice towards the goals of permanence, safety, and well-being for children.</p>	<p>B1: Explain how to advance the goals of permanence, safety, and well-being for children using at least five sources of law, policies, and procedures.</p>
<p>C. Knows how to use juvenile court processes, procedures and rules to protect children.</p>	<p>C1: Can describe the caseworker's role and responsibilities in juvenile court</p>
<p>D. Understands the historical, philosophical, and legal basis of child welfare practice.</p>	<p>D1: Describe the tension between parent's rights and children's rights and explain how it affects child welfare practice.</p>
<p>E. Knows the roles and responsibilities of other disciplines, community agencies and service providers and can collaborate with these</p>	<p>E1: List at least two strategies to promote collaboration with agency legal staff and law enforcement to prepare a case for court action.</p>

Legal Aspects of Child Welfare in North Carolina

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Underlying Concepts For This Training

Look It Up

The need to know something creates the responsibility to research the issue. If you should know it, FIND OUT. Do not take anything for granted. Child welfare work is dynamic and limitless. Research is always a part of your job.

The Law Is Gray

We expect clarity from the law, but most of the time the law is ambiguous. Frequently the law fails to provide definitive answers to practical social work questions. Discover where the sure bets and the holes are in child welfare law by asking your colleagues, reading critically, and experiencing it in action.

Legal Decisions

Your social work decisions often involve legal decisions: whether you realize it or not, you are making decisions that have legal consequences. Sometimes your options are limited by the legal parameters of a given decision, so make sure you are fully aware of the legal decisions you are making.

Local Variation

We all operate under North Carolina law, but how that law is interpreted and applied can vary greatly depending on locality. This training is not intended to undercut your agency's policy and practice or to contradict your attorney's advice, since he or she knows what variables operate in your county. Ask about how things are handled in your county.

Useful Websites for NC Child Welfare Workers

North Carolina Department of Health and Human Services Home Page

<http://www.ncdhhs.gov/>

Home of the state department that oversees the State Division of Social Services.

Contains links to agencies that often partner with county Departments of Social Services.

North Carolina Division of Social Services Home Page

<http://www.ncdhhs.gov/dss>

Includes a link to the State Family Support and Child Welfare Services Manual.

North Carolina Division of Social Services Forms

<https://www2.ncdhhs.gov/info/olm/forms/>

Lists DSS forms by number and title.

North Carolina Court Forms

<http://www.nccourts.org/Forms/FormSearch.asp>

Printable copies of the AOC forms used in child welfare proceedings.

North Carolina Statutes and General Assembly

<http://www.ncleg.net/gascripts/statutes/statutes.asp>

To access North Carolina laws, click on "NC Statutes." Also contains links to pending state legislation.

North Carolina Administrative Code

<http://reports.oah.state.nc.us/ncac.asp>

Includes rules established by the Social Services Commission regarding child welfare practice that have the force and effect of state law – See Title 10A, Chapter 70.

Administration for Children and Families

<http://www.acf.hhs.gov/>

Home of the federal agency concerned with services to children and families under the federal Department of Health and Human Services.

Bureau of Indian Affairs

<http://www.bia.gov/>

Provides links to the contact persons for each of the Native American tribes recognized by the federal government (important for child welfare workers applying ICWA, the Indian Child Welfare Act).

United States DHHS, Office of Civil Rights

www.hhs.gov/ocr/

Provides information about what recipients of federal funding must do to ensure the protection of an individual's civil rights (disability, race, color, national origin, etc.)

Chapter: Role of the Court

Role of the Court

Court Structure

State Courts

Trial Courts

District Court

- Juvenile cases (no jury)
- Criminal misdemeanors
- Civil cases worth < \$10,000

Superior Court

- Criminal felonies
- *De novo* misdemeanors
- Civil cases worth > \$10,000

Appellate Courts

N.C. Court of Appeals

N.C. Supreme Court

Federal courts

Trial Court

District Court

Appellate Courts

Circuit Court of Appeals – first level of appeal

U.S. Supreme Court – final level of appeal

Other

Military

Native American

Role of the Court

Jurisdiction

Courts are classified according to *jurisdiction*. Jurisdiction refers to the court's power or authority to handle a particular legal matter. Having jurisdiction means that the court can make a legally binding decision in a case. Generally, criminal charges, civil actions, and juvenile proceedings are each heard separately in courts with the jurisdiction to grant the appropriate relief. So, the same set of circumstances may generate cases in courts with different jurisdiction. (In some situations, military courts or Native American tribal courts may also apply.)

For example, consider the different courts that might be involved with a domestic violence case:

Criminal charge against the perpetrator of domestic violence:

- Criminal court
 - Felony charge → superior court
 - Misdemeanor charge → district court
- State brings criminal charges on behalf of society/community
- Focus is on the presumed innocence of defendant
 - Guilt must be proven beyond a reasonable doubt
- State imposes punishment, which can include imprisonment or fine

Civil action by the victim against the perpetrator:

- Civil court
- Suit typically brought by the victim on her/her own behalf
 - Suit may also be brought on behalf of the child
 - Suit may be for a Domestic Violence Protective Order (DVPO)
- Focus is on the liability of the perpetrator
 - Liability must be shown by a preponderance of the evidence
- Victim seeks a protective order or money damages for medical expenses, pain, suffering, emotional distress

Juvenile proceeding to protect the child:

- Civil court; Juvenile Abuse/Neglect/Dependency court
- Intervention by department of social services on behalf of the child
 - The court adjudicates (enters findings) and orders a disposition in best interest of child
- Focus is on the protection of the child and the removal or rehabilitation of the offending adult
- Court has jurisdiction over the parents of the child who is adjudicated abused, neglected, or dependent (could also be undisciplined or delinquent)

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Chapter: Federal Law

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Federal Law

The United States Constitution

The U.S. Constitution is the framework for all other laws and provides a foundation of basic rights. Federal law and states can grant additional rights, but they cannot take away rights guaranteed by the U.S. Constitution.

The Role of Due Process

The 4th Amendment requires the government to respect individuals' rights to be secure in their houses and **free from unreasonable searches and seizures**.

The 5th Amendment requires that the government utilize **fair and just procedures** when intervening in the lives of citizens.

Federal law recognizes that these procedures apply when families' rights to privacy and liberty to raise their children are implicated.

The 14th Amendment requires state governments to observe these same protections just like the federal government.

Practice considerations – what we do as a result

Respect

We **ask** before we go into someone's home.

We talk with families about the nature of any **allegations** and concerns.

We make them aware of **their rights** immediately.

Notice

We **inform** parties by serving them with papers.

We make **diligent efforts** to locate absent parents.

Parties have the right to be heard.

Parties have the right to counsel.

Remember: YOU are the Government!

Selected Cases

Regarding the U.S. Constitution, Due Process, and Family Rights

Troxel v. Granville, 530 U.S. 57 (2000)

The U.S. Supreme Court stated that “the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 66 (2000). It is presumed that “fit parents act in the best interests of their children.” *Id.* at 68.

Quilloin v. Walcott, 434 U.S. 246 (1978)

The U.S. Supreme Court stated that parent's right to a relationship with his child is constitutionally protected. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978).

DeShaney v. Winnebago Department of Social Services, 489 U.S. 189 (1989)

The U.S. Supreme Court determined that a child not in state custody has no due process right to be protected in his own home by a state child welfare system. *DeShaney v. Winnebago Department of Social Services*, 489 U.S. 189, 201 (1989).

Santosky v. Kramer, 455 U.S. 745 (1982)

The U.S. Supreme Court declared that the constitutionally required burden of proof in termination of parental rights cases is clear and convincing evidence. *Santosky v. Kramer*, 455 U.S. 745, 747-48 (1982).

Petersen v. Rogers, 337 N.C. 397, 445 S.E.2d 901 (1994)

The N.C. Supreme Court stated that “absent a finding that parents (i) are unfit or (ii) have neglected the welfare of their children, the constitutionally-protected paramount right of parents to custody, care, and control of their children must prevail.” *Petersen v. Rogers*, 337 N.C. 397, 403-04, 445 S.E.2d 901, 905 (1994).

Practical Application: Safety Plans and Due Process

A child welfare agency's primary concern is protecting children. During the assessment phase, a social worker enters into a safety plan (written in the Safety Assessment, DSS-5231) with the parent to address allegations and concerns.

The safety plan must be **voluntary** – the parent should not be coerced with threats or promises. The safety plan should impose the **lowest level of intrusiveness** possible while assuring the child's safety. And, the safety plan must also be **individualized** to fit the needs of the family's specific circumstances.

While social workers should aim to take the least intrusive action to protect a child, a social worker should never leave a child in unsafe circumstances. A social worker may remove the child from the home by filing a juvenile petition, or the social worker may ask the family to agree to a safety plan that calls for separation of the family in some capacity. In a separation plan, the parent may agree to:

- place the child temporarily in a safe environment;
- have a friend move into the home with the family;
- not have unsupervised contact with the child;
- forfeit decision-making authority over the child;
- have the protective parent move with the child to a safe environment; or
- have the alleged perpetrator agree to leave the home.

As discussed on the previous two pages, parents have a fundamental, constitutional right to the care, custody, and control of their children. When a child welfare agency interferes with a parent's custodial rights by asking the parent to agree to a separation plan or by removing a child from his parents, reasonable procedural protections must be in place. Sometimes, a social worker may be required to perform actions that affect a parent's custodial rights without first providing procedural due process. These actions should be used only to the extent necessary to protect the child (again, the lowest level of intrusiveness possible) and should not continue longer than necessary to assure safety.

Procedural protection must be provided within a reasonable period of time, even when a parent agrees to the infringement on his or her own custodial right. This procedural protection often takes the form of a hearing in Juvenile Court. Although it may seem that filing a petition in Juvenile Court could be detrimental to a parent, allowing the parent to have a hearing or another form of due process when their protected custodial rights are implicated is consistent with family-centered social worker practice.

Relevant Federal Statutes

Child Welfare

Child Abuse Prevention and Treatment Act of 1974

(CAPTA, P.L. 93-247, as amended by CAPTA-A of 1996, P.L. 104-235)

- a. Requires mandatory reporting of suspected child abuse and neglect.
- b. Provides immunity of those reporters.
- c. Requires confidentiality of child welfare records.
- d. Requires GAL for child if case goes to court.
- e. Established the National Center on Child Abuse and Neglect.
- f. Compliance with CAPTA ensures state eligibility for funding under Title IV-E of the Social Security Act.

Adoption Assistance and Child Welfare Act of 1980

(P.L. 96-272)

- a. Enacted to eliminate unnecessary removals and “foster care drift.”
- b. Federal funding depends on compliance.
- c. Introduced concepts used by caseworkers every day:
 - o case plan requirements
 - o judicial case review
 - o permanency planning
 - o agency required to make reasonable efforts (1983 amendment)

Child Abuse Amendments of 1984

(P.L. 98-457)

- a. Required procedures for state protective systems to respond to the reporting of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.
- b. Provided for a national adoption exchange to match special needs children with prospective adoptive families.

Family Preservation and Support Services Program Act of 1993

(P.L. 103-66)

- a. Promoted family preservation strategies by engaging in a comprehensive planning process to develop more responsive family support.
- b. Broadened the definition of “family” to include people needing services regardless of family configuration: biological, adoptive, foster, extended, or self-defined.

Child Abuse Prevention and Treatment Amendments of 1996

(P.L. 140-235)

- a. Created the Office on Child Abuse and Neglect.
- b. Enacted an expedited termination of parental rights process for abandoned infants or when the parent is responsible for the death or serious bodily injury of a child.
- c. Recognized the right of parental exercise of religious beliefs concerning medical care.
- d. Defined child abuse to include death, serious physical or emotional injury, sexual abuse, or imminent risk of harm.

The Adoption and Safe Families Act of 1997

(ASFA; P.L. 105-89)

- a. Established national goals for children in the child welfare system: safety, permanency, and well-being.
- b. Designed to clarify and strengthen the provisions of P.L. 96-272 (Adoption Assistance and Child Welfare Act of 1980).
- c. "Front-end loaded" the court process by compressing hearing schedules.
- d. Encouraged concurrent planning.
- e. Required a TPR petition to be filed when a child has been in foster care 15 of most recent 22 months, unless court finds a compelling reason why TPR not in child's best interest or child is in relative's care. (In NC, the law is 12 of 22 months.)
- f. Permanency hearing required within 12 months of entry into foster care, or within 30 days when efforts to reunite not required.

Foster Care Independence Act of 1999

(P.L. 160-169, amendment of SSA part E of title IV)

- a. Encouraged states to help children make the transition from foster care to self-sufficiency.
- b. Emphasized permanence by requiring that effort to find a permanent placement continue concurrently with independent living activities.
- c. Required certification that prospective parents have the ability to care for the needs of the child before and after placement.

Keeping Children and Families Safe Act of 2003

(P.L. 108-36, another CAPTA amendment)

- a. Required CPS to develop a protection plan for drug-exposed infants reported by hospitals.
- b. Required CPS to share otherwise confidential information with other government agencies that also have responsibility to protect children from abuse and neglect.
- c. Established open CPS court proceedings as the default.
- d. Required CPS to inform parents of its legal duties and any allegations at initial contact, and required CPS to protect parents' rights.

Child and Family Services Improvement Act of 2006

(P.L. 109-288, amendment of SSA, part B of Title IV)

- a. Instituted state mentoring programs for children of prisoners (MCOP).
- b. Established standards required of each State plan for frequency of caseworker visits for children in foster care that, at a minimum, ensure that:
 - o The children are visited on a monthly basis.
 - o The visits are well-planned and focused on issues pertinent to case planning and service delivery.
- c. Requires certain foster care proceedings to include consultation in an age-appropriate manner with the child who is the subject.

Adam Walsh Child Protection and Safety Act of 2006

(P.L. 109-248)

- a. Enacted to protect children from sexual exploitation and violent crime by instituting strict standards of assurance and cooperation by requiring:
 - o Fingerprint-based background checks of prospective foster or adoptive parents and private or public school prospective employees.
 - o Compliance across state lines.
 - o Prevention of unauthorized disclosure of information in child abuse or neglect cases.

Safe and Timely Interstate Placement of Foster Children Act of 2006

(P.L. 109-239)

- a. Enacted to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines.
- b. Increased the required frequency of State caseworker visits for children in out-of-state foster care placements.
- c. Required states to complete home studies requested by another State within a specified period, usually 60-75 days.
- d. Re-defined "Case review system" to:
 - o Require a child's health and education record to be supplied to the foster parent or provider and to the child upon attaining the age of majority.
 - o Provide for a relative caregiver, foster parent, and pre-adoptive parent's right to be heard in certain proceedings involving their foster child.

Fostering Connections to Success and Increasing Adoptions Act of 2008

(P.L. 110-351, amended SSA parts B and E of title IV)

- a. Required states to make diligent efforts to identify and notify all adult relatives of a child, within 30 days of the child's removal, of the relatives' opportunity to become a placement resource for the child.
- b. Required states to make reasonable efforts to place siblings together.
- c. Encouraged states to provide guardianship assistance.

- d. Explicitly permitted states to waive on a case-by-case basis a non-safety licensing standard for a relative foster family home.
- e. Required states to ensure coordination of health care services, including mental health and dental services, for children in foster care.
- f. Required that, 90 days prior to a youth's emancipation, the caseworker develop a personalized transition plan as directed by the youth.
- g. *See Education statutes, below p. 11, for other provisions.*

The CAPTA Reauthorization Act of 2010

(P.L. 111-320)

- a. Mandated five studies:
 - o Effectiveness of Citizen Review Panels
 - o Coordination of abuse and neglect activities
 - o Immunity for professionals that consult in abuse and neglect matters
 - o Shaken Baby Syndrome
 - o Effectiveness of state CAPTA money
- b. Safety plans required when infant born with Fetal Alcohol Spectrum Disorder.
- c. States must use Differential Response.
- d. Encouraged states to extend services to children beyond age 18.
- e. Required child development training for attorneys and GALs.

The Child and Family Services Improvement and Innovation Act of 2011

(P.L. 112-34)

- a. Authorized ten new waiver programs per year that test innovative strategies in child welfare.
- b. Required states to provide youth aged 16 or older a copy of their credit report and assistance with resolving discrepancies.
- c. Emphasized educational stability for foster children.
- d. Required states to reduce the amount of time children under five years of age are in foster care.
- e. Required states to monitor the effects of trauma and the use of psychotropic medications for child victims.

Civil Rights

Indian Child Welfare Act, 1978

(ICWA; P.L. 95-608)

- a. Established standards for placement of Native American children eligible for membership in **federally-recognized** tribes.
- b. Promotes stable and secure Indian tribal entities.

- c. Tribe has rights that are independent of the interests of the Indian children and their parents.
- d. Tribe decides who is a member.
- e. “Indian child” is a member (per the tribe) or the biological child of a member (per the tribe).
- f. Fraction or percentage of Native American ancestry is irrelevant.
- g. Compliance essential or court action may be invalidated.

Americans with Disabilities Act of 1990

(P.L. 101-336, as amended by the ADA Amendments Act of 2008 (P.L. 110-325))

- a. Title II applies to public agencies that receive federal funding.
- b. Required agencies to make reasonable accommodations to individuals with disabilities.
- c. Applies to children, parents, foster parents, and adoptive parents.

Multi-Ethnic Placement Act of 1994

(MEPA; P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188. 42 U.S.C. § 671(a)(18) and 42 U.S.C. § 1996b.)

- a. Prohibited discrimination in the placement of children on the basis of race, color, or national origin.
- b. Specified that no child should wait for a placement or move more frequently because of race.
- c. Required the recruitment of foster and adoptive parents to reflect the diversity of the children in care.
- d. 1996 Amendments: “Removal of Barriers to Interethnic Adoption” (P.L. 104-188, §1808) removed color, race, and national origin **entirely** from consideration.
- e. Agency cannot honor the request of a birth parent to place his or her child with a prospective parent of a specific color, race, or national origin.
- f. Any decision to consider the use of color, race, or national origin in a specific placement must be strictly scrutinized – failure to follow MEPA is a civil rights violation.
- g. MEPA does not apply to tribes recognized under the Indian Child Welfare Act.

Education

Family Educational Rights and Privacy Act of 1974

(FERPA)

- a. Protects the privacy of student education records.
- b. Applies to all schools that receive federal funding.
- c. Provides that parents or eligible students (age 18 or older or attending post-secondary education) have the right to inspect and review their education records.

- d. Provides that schools must have written permission from parent or eligible student in order to release education records.
- e. Schools may disclose directory information (ie. name, contact info, enrollment info) without consent – this is usually not helpful for our purposes.
- f. There are FERPA exceptions for court orders, subpoenas, and health and safety emergencies.

Additional information:

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Fostering Connections to Success and Increasing Adoptions Act of 2008

(P.L. 110-351, amended SSA parts B and E of title IV)

- a. Required each child receiving a title IV-E foster care, adoption, or guardianship payment to be a full-time student unless he or she is incapable of attending school due to a documented medical condition.
- b. Every foster child’s case plan must include assurances of appropriateness of educational setting and proximity of school placement.
- c. First federal child welfare law with a major emphasis on educational stability. CPS must coordinate for child to remain in same school unless in the child’s best interests to move.
- d. If staying is not in the child’s best interests, then the case plan must include immediate and appropriate enrollment in new school.
- e. All foster children receiving IV-E funding must be enrolled in school.
- f. IV-E funding can be used for reasonable transportation costs.
- g. *See Child Welfare statutes, above p. 8, for other provisions.*

The Uninterrupted Scholars Act of 2013 (USA)

(P.L. 112-278)

- a. Amends provisions of FERPA to allow for the release of otherwise confidential educational records to a child welfare agency when a child is in custody (when DSS is legally responsible for the care and protection of the student).
- b. If child is in custody, DSS can get records under USA.
- c. If child is not in custody, must obtain informed consent, obtain court order, or obtain subpoena UNLESS health and safety emergency applies.

Additional information:

American Bar Association (ABA) article, “The Uninterrupted Scholars Act: How Do Recent Changes in FERPA Help Child Welfare Agencies Get Access to School Records?”
http://www.fostercareandeducation.org/portals/0/dmx/2013/02/file_20130211_145758_xjnFqt_0.pdf

State Policy Advocacy and Reform Center (SPARC) brief, “Education Records of Children in Foster Care”

<http://childwelfaresparc.org/education-records-of-children-in-foster-care/>

Every Student Succeeds Act of 2015 (ESSA)

(P.L. 114-95)

- a. Passed by Congress to fix the No Child Left Behind (NCLB) Act, enacted in 2002.
- b. Provides access to high-quality preschool to more children.
- c. State educational agencies are to collaborate with child welfare agencies to ensure the educational stability of children in foster care.

Compacts and Uniform Acts

These are not actually federal laws, but state laws resulting from nationwide agreements that laws dealing with a particular topic will be similar from state to state.

Interstate Compact on the Placement of Children

(ICPC; N.C.G.S. §7B, Article 38)

- a. Enacted by all 50 states to ensure protection and services to children placed across state lines for purposes of foster care or adoption.
- b. Defines types of placements, procedures for interstate placement, & responsibilities of agencies.
- c. Currently undergoing reform at the federal level to increase timeliness.

Additional information:

Association of Administrators of the Interstate Compact on the Placement of Children

<http://www.aphsa.org/content/AAICPC/en/home.html>

Uniform Child Custody Jurisdiction and Enforcement Act

(UCCJEA; N.C.G.S. §50-A)

- a. Home state is the state where a child has lived with a parent for at least six months before the filing of a custody action.
- b. Prevents forum shopping in child custody disputes.
- c. Promotes cooperation with courts of other states to resolve custody issues.
- d. If DSS takes custody of a child who is the subject of a custody case or DSS case in another state, the NC court does NOT have jurisdiction to adjudicate a/n/d unless original court declines to exercise its jurisdiction.
 - o See *In the matter of Malone*, 129 N.C. App. 338 (1998) and *In the matter of Van Kooten*, 126 N.C. App. 764 (1997).

Federal Audits and Reviews

The Federal Government enforces its child welfare laws by funding programs that meet its requirements. Periodically, North Carolina cases are reviewed to assess compliance. The two audits that could potentially result in significant payback of federal money are the Child and Family Services Review and the IV-E Eligibility Review.

The Child and Family Services Review (CFSR) is held to assess substantial conformity with the state plan requirements found in title IV-B and IV-E of the Social Security Act.

The CFSR studies and evaluates performance in child protection cases, focusing on:

- (1) whether the state is adequately keeping abused and neglected children safe;
- (2) whether the state is achieving timely permanence for foster children; and
- (3) whether the state is maintaining the wellbeing of children in foster care.

These reviews are conducted at two- or five-year intervals (depending upon whether the state was in substantial conformity in the previous review). The CFSR measures seven outcomes in the areas of child protective, foster care, adoption, family preservation and family support, and independent living services, focusing on continual improvement for each state. You, as a child welfare social worker, can make a difference in these seven measured outcomes.

Outcomes measured:

- (1) Whether children under the care of the state are protected from abuse and neglect;
- (2) Whether children are safely maintained in their own homes whenever possible and appropriate;
- (3) Whether children have permanency and stability in their living conditions;
- (4) Whether the continuity of family relationships and connections is preserved for children;
- (5) Whether families have enhanced capacity to provide for their children's needs;
- (6) Whether children receive appropriate services to meet their educational needs; and
- (7) Whether children receive adequate services to meet their physical and mental health needs.

In addition to measuring outcomes, the Children’s Bureau measures how the state and individual counties provide support for direct practice through seven systemic factors.

Systemic supports measured:

- (1) Statewide information system
- (2) Case review system
- (3) Quality assurance system
- (4) Staff and provider training
- (5) Service array
- (6) Agency responsiveness to the community
- (7) Foster and adoptive parent licensing, recruitment, and retention

See the following websites for additional guidance regarding CFRs:

<http://www.acf.hhs.gov/programs/cb/monitoring/child-family-services-reviews>

The IV-E Eligibility Review is held every three years to assess compliance with the eligibility requirements of title IV-E of the Social Security Act. Unlike the Child and Family Services Review, payment adjustments are made for the cases within the review sample. In order to pass the IV-E review, a state must have four or fewer cases with errors in the Period Under Review (PUR). Payment adjustments are required regardless of whether the state passes, but if the state does not pass, it will be required to undergo more frequent and rigorous reviews until it passes.

Initial eligibility requirements include specific court order language and a requirement that the family meet the Aid to Families and Dependent Children (AFDC) eligibility requirements that were in place in July 1996. The child must also be placed in a licensed foster home that meets federal and state requirements. Eligibility continues as long as the AFDC requirements of “need” and “deprivation” continue, the child remains in a licensed home, and court order language reflects the agency’s reasonable efforts to provide permanency for the child.

See the following websites for additional guidance regarding IV-E eligibility:

<http://www.acf.hhs.gov/programs/cb/monitoring/title-ive-reviews>

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Chapter: North Carolina Law

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North Carolina Law

State Constitution

North Carolina has had three constitutions. The most recent was adopted in 1971 and provides that every child has the right to a “sound basic education.” State law may expand, but not decrease, rights granted in this constitution or in the U.S. Constitution.

Statutes

North Carolina’s statutes are called the North Carolina General Statutes, abbreviated N.C.G.S. These statutes are broken down by subject into numbered chapters. Most North Carolina child welfare statutes are contained in Chapter 7B, “Juvenile Code,” though there are others that are important for us (see the “Additional Statutes Affecting Child Welfare Practice” tab). Remember that many of these laws were enacted in response to the federal statutes previously discussed.

Administrative Laws

These are contained in the North Carolina Administrative Code (N.C.A.C.). In North Carolina, the Administrative Code has the force of law and is used in situations requiring a greater level of detail than statute can provide. The Central Registry, the Responsible Individuals List, Foster home licensing, and Confidentiality are all covered in the Administrative Code. The North Carolina Legislature had delegated its rulemaking authority to the Social Services Commission (N.C.G.S. § 143B-153 through §143B-156). See 10 N.C.A.C. 70A through 10 N.C.A.C. 70O for the rules most relevant to child welfare.

Case Law

Case law is created when appellate courts review the decisions from trial courts and decide whether the trial judge correctly applied constitutional and statutory provisions to the facts offered into evidence at trial.

Finding and Using North Carolina Law

Most N.C. child welfare statutes are contained in Chapter 7B of the N.C.G.S. Chapter 7B is further divided into groupings of statutes called “articles.” The ones you are most likely to use are listed below. The actual statutes are in the Reference section, under the N.C.G.S. Chapter 7B tab of this manual.

Article 1	§7B-100s	Definitions
Article 3	§7B-300s	Abuse & Neglect Complaints
Article 5	§7B-500s	Custody
Article 8	§7B-800s	Hearing procedures (adjudication)
Article 9	§7B-900s	Dispositions
Article 11	§7B-1100s	Termination of Parental Rights (TPR)

The next exercise, **General Statutes Search**, will give you practice in finding relevant child welfare statutes in Chapter 7B.

Exercise: General Statutes Search

Review Chapter 7B (located in the Reference section) and fill in the blanks.

Citation	Topic / Subject	Statute
1 N.C.G.S. § 7B-101(1)(b)	<i>Abuse</i>	Creates or allows to be created a <u>substantial</u> risk of <u>serious</u> physical injury to the juvenile by other than <u>accidental</u> means.
2 § 7B-101(1)(f)		Encourages, directs, or _____ of delinquent acts involving _____ turpitude committed by the juvenile.
3 § 7B-101(14)		A person who has not reached the person's eighteenth birthday and is not _____, _____, or a member of the Armed Forces of the United States.
4 § 7B-101(1)(c)		Uses or allows to be used upon the juvenile _____ or _____ inappropriate procedures or cruel or grossly _____ to modify behavior.
5 § 7B-101(15)		A juvenile who does not receive proper _____, _____, or discipline from the juvenile's _____, guardian, custodian, or _____; or who has been abandoned; or who is not provided necessary _____ care; or who is not provided necessary remedial care; or who lives in an _____ to the juvenile's welfare; or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of law.
6 § 7B-302(a)		When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a _____ and _____ assessment using either a family assessment response or an investigative response, in order to ascertain the _____ of the _____, the _____ of the abuse or neglect, and the _____ of _____ to the juvenile, in order to determine whether protective services should be _____ or the complaint filed as a petition.
7 § 7B-302(c)		If the parent, guardian, custodian or caretaker _____ to accept the protective services provided or arranged by the director, the director shall sign a _____ seeking to invoke the jurisdiction of the _____ for the protection of the juvenile or juveniles.
8 § 7B-500(a)		Temporary custody means the _____ of physical custody and providing personal _____ and _____ until a court _____ for nonsecure _____ can be obtained....

9	§ 7B-101(1)(g)		Commits or allows to be committed an offense under G.S. 14-43.11 (_____), G.S. 14-43.12 (_____), or G.S. 14-43.13 (_____) against the child.
10	§ 7B-303(b)		[O]bstruction of or interference with an assessment means refusing to disclose the _____ of the juvenile, refusing to allow the director to have _____ access to the juvenile, refusing to allow the director to _____ or _____ the juvenile in private... or other _____ that makes it _____ for the director to carry out the duty to assess the juvenile's _____.
11	§ 7B-101(3)		A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an _____ member of the juvenile's _____, an adult _____ entrusted with the juvenile's care....
12	§ 7B-501(b)		A juvenile taken into temporary custody [without an order] shall not be held for more than _____ hours, or for more than _____ hours if any of the _____ hours falls on a Saturday, Sunday, or legal holiday....
13	§ 7B-912(a)		<p>... at every _____ hearing for a juvenile in the custody of a county department of social services who has attained the age of _____ years, the court _____ inquire and make _____ findings regarding each of the following:</p> <p>(1) The _____ provided to _____ the juvenile in making a transition to _____.</p> <p>(2) The _____ the county department of social services is taking to _____ that the _____ family or other licensed placement provider follows the _____ and _____ parent standard as provided in G.S. 131D-10.2A....</p>
14	§ 7B-906.2(b)		At any _____ hearing, the court shall adopt _____ permanent plans and shall identify the primary plan and secondary plan. _____ shall remain a primary or secondary plan unless the court made findings under G.S. 7B-901(c) or makes written findings that _____ clearly would be unsuccessful or would be inconsistent with the juvenile's _____ or _____.
15	§ 7B-101(9)		A juvenile in need of assistance or placement because (i) the juvenile has no _____, guardian, or custodian responsible for the juvenile's care or supervision or (ii) the juvenile's parent, guardian, or custodian is _____ to _____ for the juvenile's care or supervision and lacks an _____ child care arrangement.

16	§ 7B-1112.1		<p>If the guardian ad litem disagrees with the selection of adoptive parents or the _____ want to adopt the juvenile and were not selected as adoptive parents, the guardian ad litem or foster parents shall file a motion within _____ days of the department's notification and schedule the case for hearing on the next juvenile calendar. The department _____ change the juvenile's placement to the prospective adoptive parents unless the time period for filing a motion has expired and no motion has been filed. The Department shall provide a copy of a _____ for judicial review of adoption selection to the foster parents not selected.</p>
17	§ 7B-910(a),(c)		<p>The court _____ review the placement of any juvenile in foster care made pursuant to a voluntary agreement between the juvenile's _____ or _____ and a county department of social services....</p> <p>An initial review hearing shall be held not more than _____ after the juvenile's placement....</p>
18	§ 7B-808(a)		<p>No predisposition _____ shall be submitted to or considered by the court prior to the completion of the _____ hearing. The court may proceed with the _____ hearing without receiving a predisposition _____ if the court makes a written finding that a _____ is not necessary.</p>
19	§ 7B-502(a)		<p>Unless the petition is being filed pursuant to G.S. 7B-404, _____ that the department will be seeking nonsecure custody shall be given to _____, or if unavailable, to a partner or employee at the attorney's office when any of the following occur:</p> <ol style="list-style-type: none"> (1) The department has received _____ notification that a _____ has counsel for the juvenile matter. (2) The respondent is represented by counsel in a _____ proceeding within the _____ involving another _____ of the respondent.
20	§ 7B-302(h)		<p>The director or the director's representative may not enter a _____ residence for assessment purposes without at least one of the following:</p> <ol style="list-style-type: none"> (1) The reasonable belief that a _____ is in imminent _____ of death or serious _____ injury. (2) The _____ of the _____ or person responsible for the juvenile's care. (3) The accompaniment of a _____ officer who has legal authority to enter the residence. (4) An _____ from a court of competent jurisdiction.

21	§ 7B-505.1(c)		<p>The director shall obtain _____ from the juvenile's _____, guardian, or custodian to _____ to all care or treatment not covered by subsection (a) or (b) of this section, except that the court may authorize _____ to provide consent after a _____ at which the court finds by clear and convincing evidence that the _____, _____, or evaluation requested is in the juvenile's best interest. Care and treatment covered by this subsection includes:</p> <p>(1) Prescriptions for _____ medications.</p> <p>...</p> <p>(3) _____ when it is known that the parent has a bona fide _____ objection to the standard schedule of immunizations....</p>
22	§ 7B-906.1(c)		<p>At each hearing, the court _____ consider information from the parents, the _____, the guardian, any person providing care for the juvenile, the custodian or agency with custody, the guardian ad litem, and _____ other person or agency that will aid in the court's review.</p>
23	§ 7B-101(15a)		<p>An individual having a _____ relationship with the juvenile. In the case of a juvenile member of a State-recognized _____ as set forth in G.S. 143B-407(a), _____ kin also includes any member of a State-recognized tribe or a member of a _____ recognized tribe, whether or not there is a _____ relationship with the juvenile.</p>
24	§ 7B-1114(a)		<p>A _____ whose parent's rights have been terminated, the _____, _____, or a county department of social services with custody of the juvenile may file a motion to _____ the parent's rights if all of the following conditions are satisfied:</p> <p>(1) The juvenile is at least _____ years of age or, if the juvenile is younger than _____, the motion alleges _____ circumstances requiring consideration of the motion.</p> <p>(2) The juvenile does not have a _____ parent, is not in an _____ placement, and is not likely to be _____ within a reasonable period of time.</p> <p>(3) The order _____ parental rights was entered at least _____ years before the filing of the motion, unless the court has found or the juvenile's attorney advocate and the county department of social services with custody of the juvenile stipulate that the juvenile's permanent plan is _____ adoption.</p>

Exercise: Practical Application of N.C. Statutes

Now that you are familiar with these child welfare statutes, use them to determine the legal answers to the following scenarios.

1. Sally marries at age 15, and then divorces her husband thirteen months later. She moves back in with her parents. CPS Intake receives a report that Sally's father beat her up last night, leaving bruises on her face, neck and arms and she is black and blue all over. Should this report be accepted for assessment? What action should be taken?
2. A mother of two young children has sent them into a store to shoplift while she waits in the car. Does this meet the definition of either abuse or neglect?
3. You are conducting an assessment of a family and learn that on at least three occasions, the mother has tied her three-year-old to a chair to force him to eat his vegetables. On one occasion he was tied there for an hour. What is this?
4. When you arrive at a home to initiate an investigative assessment, the parents refuse to let you in until you tell them "what gives you the right to be there." What do you tell them? What law tells you what to do?
5. You are initiating an assessment and the parents refuse to let you interview the children. What would be your course of action?
6. The court gives your county nonsecure custody of an infant who, by the family's report, has been "carrying on a cold" for weeks. You observe that the infant is wheezing and has labored breathing. Can you seek medical treatment for the infant?
7. Ms. Smith's sister provides child care for the Smith children five days a week. The sister comes over in the morning and stays until 5:00 or 6:00 p.m. Sometimes she spends the nights and weekends. The sister has spanked one of the children leaving bruises on the legs, and so Mrs. Smith has called DSS. Is this a report? How would your answer change if she was a babysitter, rather than a relative?
8. A worker takes temporary custody (without a court order) of a two-year-old because the child has been alone for several hours and no one knows the whereabouts of the parents. As the worker is leaving the home with the child, the grandmother arrives and says that she is willing to stay at the home with the child until a parent can be found. The worker calls the agency and learns that the grandmother has no criminal record or CPS record. Can the worker now leave the child with the grandmother?

9. CPS Intake receives a call from probation that the mother of two young children has tested positive for cocaine. Is this a report?

10. A ten-year-old has been left at home while the mother has gone to the beach for the weekend. Is this a report of dependency or neglect?

You take temporary custody (that is, without an order) on Sunday afternoon. When you are leaving the home with the child, she complains of severe stomach cramps. Can you seek medical attention for the child? And can you place the child in foster care until the mother is located?

12. What is a Voluntary Placement Agreement (VPA)? How long can a VPA last?

13. Upon arriving at a residence to initiate an assessment, the 17-year-old invites you into the home and says that you can wait in the living room until the parents get back. Is this permissible?

14. CPS Intake receives a call from a woman who says her husband was screaming and cursing at their four-year-old son, and then threw a heavy glass ashtray at the child. The only reason the child wasn't hit in the head with the ashtray is he dropped to the floor quickly. What is this?

15. Does the court need to consider information from the juvenile at a review hearing? What if the juvenile is under twelve? At what age must the juvenile attend the review hearing?

16. The holiday season is approaching and you have three months left until your next review hearing. The juvenile's parents have been working with you cooperatively, have been able to resolve all of the safety issues to your satisfaction, and have attended and actively participated in supervised visits. You and your supervisor agree the parents are ready for unsupervised visits and the guardian ad litem agrees it would be in the child's best interest to let him spend Christmas with his family. Can you do this?

18. A man who is on the sex offender registry because of a conviction of sexual assault against a minor moves in with his girlfriend and her two small children. Does your agency have authority to conduct an assessment? If so, do the allegations meet the definition of abuse, neglect, or dependency?

19. If a foster family wanting to adopt is not chosen by the adoption selection committee, how must the Department proceed?

20. John is 16 years old and has been in foster care for several years. His parents' rights were terminated almost three years ago, but his permanent plan is no longer adoption. John's mother, Ms. Jones, has remedied the issues that caused John to enter foster care and she can now provide a safe home for John. Can Ms. Jones seek to have her parental rights reinstated? If not, can anyone else request the court to consider reinstating her rights?

21. You initiate a report with a family regarding alleged sexual abuse by the mother's live-in boyfriend and father of one of the children. You ask the family to agree to a safety plan that includes that the boyfriend/father will leave the home and not have contact with any of the children. The family refuses to agree with the plan. The victim child's disclosure was vague (although still concerning), so you do not feel that you have enough to file a juvenile petition at this time. Do you have any other options?

State Policy

Other materials that shape child welfare practice, derived under law, but without the force of law include:

Family Support and Child Welfare Services Manual

Child and Family Services Review

County policies and procedures manuals

County “minimum standards”

Chapter: Potential Liability

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Potential Liability

Awareness is important, but don't let concerns about potential liability paralyze you. Anyone can file a lawsuit. It doesn't mean there's necessarily anything to it or that it has merit. Of course, the fact that a case is frivolous does not minimize inconvenience, frustration, and the possibility of expense, but the good news is most of the time you are not personally liable.

Possible actions that can be brought against you/your agency:

Civil suits for

- Breach of confidentiality / improper release of information
 - Most common, along with sexual misconduct
 - Lack of informed consent to treatment
 - Ineffective treatment/results
 - Negligence; malpractice (rare)

Civil rights/constitutional violations

- Due process concerns (governmental procedures must be fair)
 - Ex: failure to follow proper procedure for removal of child from home
- Privacy
 - Ex: unauthorized disclosure of information
- MEPA/IEP, ICWA, ADA violations

Criminal charges for

- Intentional injuries, such as assault, battery
- Other criminal acts, such as sexual exploitation

Administrative disciplinary actions

- Reprimand
- Transfer
- Demotion
- Dismissal

Professional sanctions

- NASW censure for unethical conduct or unprofessional behavior
- Adjudication through professional review
- Suspension or revocation of membership
- No recourse here for *incompetent* practice

Your biggest liability is NOT following law and policy.

Adherence to law and policy is what allows your agency to protect you from whatever personal liability you may face.

The best defense is **best practice**. This means:

- Knowledge of and compliance with laws, policies, & procedures that apply to social work practice
- Careful, professional, legal practice
- Adherence to NASW Code of Ethics
- Conscientious use of supervision and bi-level review
- Preservation of confidences & protection of records within legal limits
- Thorough, accurate, timely recording of client information
- Avoidance of illegal behavior and inappropriate behavior toward clients

Immunity / Protection from Liability

DSS workers, as representatives of the Director (*see* N.C.G.S. § 108A-14(b)), are public officials and therefore are not liable for mere negligence. This immunity does **not** extend to civil rights violations. *See Hobbs v. DHR*, 520 S.E.2d 595 (1999) and *Myer v. Walls*, 347 N.C. 97, 489 S.E.2d 880 (1997).

State employees and public officials may be shielded as to liability for negligent acts up to \$500,000, but they receive no protection for intentional injuries or criminal acts. *See* Tort Claims Act, N.C.G.S. § 143-299.2.

Generally, professional liability insurance does not provide protection for intentional injuries or criminal acts.

Certain immunities are granted under mandatory reporting laws.

Find out your agency's policy on car accidents, insurance, and what is covered as "transportation services" for county vehicles – and your own.

Chapter: Confidentiality and Exchanging Information

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Confidentiality and Exchanging Information

As child welfare workers, you will become privy to some of the most personal, private information a family has. However, you sometimes need to exchange some of this confidential information with others who also work with the family. The correct handling of this sensitive information is absolutely critical.

Maintaining confidentiality

State statutes require that DSS keeps all information learned in the course of working with families confidential.

N.C.G.S. § 108A-80 covers all DSS information, and provides that, “. . . it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services . . . *except for the purposes directly connected with the administration of the programs. . . .*”

N.C.G.S. § 7B-302(a1) speaks specifically to CPS, and provides that, “All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department. . . .”

10A N.C.A.C. 70A.0113 provides that no one outside DSS other than state and federal auditors may review a protective services record, unless a judge orders it, or the child or his attorney want to examine it. However, this code does permit DSS to share information without an order to agencies used to help provide protective services and with the D.A. for certain purposes.

Exchanging confidential information

There are times when DSS is required to obtain and share confidential information with other service providers, law enforcement, and others. To protect the family’s confidentiality (and yourself), exchange information using one or more of the methods below.

Informed consent

Whenever possible, obtain an informed consent from the individual whose records you are seeking. The components of an informed consent include:

- the name of the individual giving consent
- the nature of the records sought
- the purpose for which it is sought
- the intended recipient of the material
- the length of time the consent is effective
- the individual’s signature and date

If DSS is unable to obtain consent to release confidential information

N.C.G.S. § 7B-302(a1)(1) speaks specifically to CPS, and provides that, “The department *shall disclose* confidential information to any *federal, State, or local government entity* or its agent in order to protect a juvenile from abuse and neglect. Any confidential information disclosed to any federal, State, or local governmental entity or its agent under this subsection shall remain confidential with the other government entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.”

N.C.G.S. § 7B-302(e) – DSS can make a *written demand* for otherwise confidential information *if that information will assist* in assessing reports of abuse, neglect or dependency or providing protective services.

N.C.G.S. § 7B-302(f) & (g) – Unless the reporter requests otherwise, DSS must inform the reporter as to whether the report was accepted for assessment. If the report was accepted, DSS must inform the reporter at the completion of the assessment as to whether there was a finding of abuse, neglect, or dependency and if a petition has been filed.

N.C.G.S. § 7B-303 – DSS can file a petition for “interference with assessment” against anyone who refuses to allow DSS access to confidential information requested during an assessment under §7B-302(e). (Also useful for getting personal access to the child.)

N.C.G.S. § 7B-310 and “privileged” information – Sometimes a person or organization will attempt to prevent DSS from obtaining information in the belief that a privilege, such as doctor-patient or husband-wife, prevents disclosure. However, NC law provides that such privilege does not prevent an individual from making a report of a/n/d even if the reporter acquired that knowledge in an official professional capacity. Nor does it prevent otherwise “privileged” evidence of a/n/d being revealed in court. The only privilege this law recognizes is the attorney-client privilege when the attorney’s knowledge is acquired in the course of representing a parent or caretaker in an a/n/d matter.

Other ways confidential information is exchanged

N.C.G.S. § 7B-307 – DSS must notify the District Attorney and law enforcement if there is evidence of abuse or physical harm in violation of criminal statutes.

N.C.G.S. § 7B-700 – “Discovery.” DSS must provide the parent’s attorney with otherwise confidential information needed to prepare for court hearings, though DSS can move to have the court limit the materials to be disclosed.

N.C.G.S. § 7B-2901(c) – This statute provides that the court may order the sharing of information among such public agencies as necessary to reduce trauma to a child victim.

N.C.G.S. § 7B-3100 and its implementing regulation **28 N.C.A.C. 01A.0301** – Once a petition is filed that alleges a juvenile is a/n/d, undisciplined, or delinquent, this legislation

requires the sharing of information upon request amongst local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district attorney's office, the Department of Juvenile Justice and Delinquency Prevention, and the Office of Guardian ad Litem Services.

Court hearings – Most court testimony will necessarily involve revealing otherwise confidential information, which the law permits as it is “for the purposes directly connected with the administration of the programs of public assistance and social services.” N.C.G.S. § 108A-80(a). However, to preserve their relationship with families, some agencies request that the judge order the worker to reveal confidential information when the worker takes the stand.

Issues specific to certain types of records

Medical records – Again, DSS should obtain informed consent from the person whose records are sought. If that is not possible, the medical facility may argue that HIPAA (Health Care Portability & Accountability Act, a federal law) prevents disclosure. The DSS answer to this argument is that information relating to child abuse falls under various exceptions created by federal regulations at 45 CFR § 160.203(c); 45 CFR § 164.512(a)(1) and (b)(1)(ii). Medical records are also obtainable by court order under 45 CFR § 164.512(e)(1)(i).

Identity of a person having AIDS – When DSS has custody of a child who has AIDS, the agency may release information identifying the child as a person having AIDS *as necessary*, but it is good practice to obtain informed consent from the child’s parents. Placement providers should be informed of the child’s status prior to placement. If DSS does not have custody of a child who has AIDS, the agency **must** obtain informed consent from the parents before identifying the child as a person having AIDS. N.C.G.S. § 130A-143 allows the disclosure in other narrowly limited circumstances that would apply regardless of whether DSS has custody, including informing health care personnel providing care to the child. N.C.G.S. § 130A-143 also applies when the person having AIDS is an adult.

School records – DSS should obtain an informed consent from the parent of the child whose records are sought. If not possible, school may argue that FERPA (Family Educational Rights and Privacy Act, a federal law) prevents disclosure. The DSS answer to this argument is that information necessary to an active CPS assessment probably falls under the health and safety emergency exception created by federal regulation at 34 CFR § 99.36(a). School records are also obtainable by court order under 34 CFR § 99.31(a)(9)(i).

Substance abuse records – DSS should try to obtain informed consent, using *DSS-5297, Consent for Release of Confidential Information*, from the person whose records are sought. If that is not possible, DSS may move for a court order under federal law. See 42 U.S.C. § 290dd-2(b)(2)(C) and 42 C.F.R. § 2.64.

To obtain the order, DSS must show that the patient has been notified about the court hearing to obtain the record; other ways of obtaining the information are not available or would not be effective; and the public interest and need for disclosure outweigh the need to maintain confidentiality.

Redisclosure of Confidential Information

Twelve Questions to Ask (and Answer)
Regarding Disclosure of Confidential Information
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1. What information would be disclosed?
2. How did DSS obtain the information?
3. From where did DSS obtain the information?
4. To whom does the information pertain?
5. Does the information identify a particular individual?
6. Has the individual to whom the information pertains consented to disclosure?
7. To whom would the information be disclosed?
8. For what purpose would the information be disclosed and how would it be used?
9. Will the information be redisclosed?
10. What are the practical consequences of disclosing or not disclosing the information?
11. What law (or laws) applies to the use or disclosure of the information?
12. Under what circumstances does the applicable law prohibit, allow, or require disclosure?

Ten Commandments:
Confidentiality and Child Protective Services
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- I. Thou (the county social services department) shall disclose, upon request by any person, any information in thy records *unless* applicable state or federal laws provide otherwise, for thou shalt honor the state's Public Records Law even if it is the exception rather than the rule.
- II. When deciding whether information may or must be disclosed, thou shalt read carefully all of the applicable state and federal laws.
- III. If applicable state or federal law provides that certain information is confidential or privileged, thou may not use or disclose the information unless allowed or required to do so by applicable state or federal law, for thou must comply with the confidentiality requirements of state and federal law.
- IV. Thou shall remember that even when a state or federal law provides that certain information is confidential, there are always exceptions to the rule.
- V. Thou may (unless specifically prohibited by applicable state or federal law) use, share, or disclose confidential or privileged information to the extent necessary to perform thy responsibilities related to the protection of abused, neglected, or dependent juveniles.
- VI. Thou may (almost always) disclose confidential or privileged information with the written consent of the individual to whom the information pertains (or that individual's authorized representative).
- VII. If thou receivest a subpoena for confidential or privileged information, thou shalt file a motion to quash the subpoena unless the information must or may be disclosed under applicable state or federal law.
- VIII. Thou must disclose confidential or privileged information if required to do so pursuant to a valid court order, but generally should advise the court that the information is confidential or privileged, request the court to conduct an *in camera* review of the information, request that the court not order disclosure unless the need for disclosure clearly outweighs the interests with respect to maintaining confidentiality, and that the court impose appropriate restrictions regarding the use or redisclosure of the information.
- IX. When thou art authorized or required to disclose confidential or privileged information, thou shalt disclose only as much information as is necessary to be disclosed under the circumstances.
- X. When some information in a record may or must be disclosed and other information may not be disclosed, thou shalt redact the information that may not be disclosed and disclose the information that must or should be disclosed.

Other Resources

Aimee N. Wall, [Disclosing Protective Services Information: A Guide for North Carolina Social Services Agencies](#), UNC School of Government (2015).

This book helps with “identifying, describing, and analyzing many of the key federal and state confidentiality laws that apply to disclosure of protective services information by county departments of social services. The book includes:

- an overview of the most general, overarching state law that applies to protective services records, G.S. 108A-80, and the accompanying state regulations,
- an exploration of laws that specifically apply to adult protective services and child protective services,
- a chapter on disclosure of health-related information, and
- an examination of the rights of individuals to access information about themselves that is contained in a protective services record.”

UNC School of Government, *Disclosing Protective Services Information*,
<https://www.sog.unc.edu/publications/books/disclosing-protective-services-information-guide-north-carolina-social-services-agencies> (last visited July 19, 2016).

Social Services Confidentiality Research Tool

<https://www.sog.unc.edu/css-research-tool>

“Every day social services agencies in North Carolina must identify, interpret, and apply numerous state and federal confidentiality laws that apply to a range of public assistance and protective services programs. Because there are so many laws to consider, it is sometimes difficult to identify the right laws. In 2002, former School of Government faculty member John Saxon began the process of collecting and summarizing applicable confidentiality laws. This research tool expands on his work and presents it in a different manner. The tool is a database that includes over 250 legal resources, including statutes, regulations, cases, and guidance materials. For each resource identified, the database includes a citation, an external link, a brief summary, and links to other potentially relevant resources. In creating this tool, it was our goal to make it as easy as possible for state and local officials to locate and interpret applicable confidentiality laws.”

UNC School of Government, *Social Services Confidentiality Research Tool*,
<https://www.sog.unc.edu/resources/tools/social-services-confidentiality-research-tool>
(last visited July 19, 2016).

Chapter: Gathering and Recording Information

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Gathering and Recording Information Documentation

Perhaps only 10% of cases go to court, but 100% must be documented as if they were going to court since it's impossible to predict which ones will end up before a judge.

The Golden Rule of Documentation:
If you didn't write it down, it didn't happen.

Why is it important to document well?

- shows your work with the family
- helps you remember what you did
- allows you to prepare for court
- proves your objectivity
- allows a later worker to rely on your file
- prevents agency from duplicating efforts
- CYA – shows you used bi-level review
- demonstrates reasonable efforts
- shows compliance with the law

What are some consequences of not documenting well?

- increases risk to children if history is incomplete
- forgetting what happened, losing court case
- ineffective as a witness
- appearing biased against the family
- time wasted repeating efforts made before
- inability to show reasonable efforts, loss of federal funding
- failing CFSR, fatality review
- losing your job

General Principles of Documentation

Accountable

- Both internal accountability (within the agency) and external accountability (courts, parents, attorneys, GAL, state and federal reviews)
- Shows your efforts with families.
- Forms the basis for evaluation and review.
- Provides information for supervisors other workers, service providers, law enforcement, D. A., courts.

Effective

- If it can't be read, it's not effective.
- Thorough, timely and well-organized.
- Clear, concise and "behavioral."
- No opinions or conclusions.

Legally defensible

- Must stand up in court.
- Accurate, objective, strengths-based, systematic.
- May be presented in other courts as well: juvenile, custody, criminal, civil suits.

What to document?

Document everything affecting safety and risk! This is a lot to organize. Find ways to order the information that you take in to avoid being overwhelmed. Think about the type of data you are gathering as falling into one of three categories: safety, concerns, and information.

Again, remember the Golden Rule of Documentation:
If you didn't write it down, it didn't happen.

Additionally, social workers draw lots of conclusions and have lots of opinions – it's the nature of the work we do. But, those conclusions and opinions do not belong in documentation. This is not your record. It is the agency's record of its interaction with the family. Your documentation should be as objective and non-judgmental as possible. Since so many people will end up reading your documentation both inside and outside the agency, your documentation is the place to demonstrate that you are unbiased, thorough, and professional.

Document facts and behavioral observations. A “behavioral” observation is a specific, tactile, objective description that paints a picture. It is not “the parent disciplined as a result of unrealistic expectations of the older child,” but instead, “the parent hit the four year old twice on her right arm, leaving a small bruise, because she didn't dress and feed the two year old.”

Direct quotes and quantifiable information help paint that picture for those who depend on your documentation, as well as jog your memory.

Important forms

DSS 5010 – Structured Documentation Instrument for CPS Assessments

DSS 5295 – Monthly Foster Care Record

DSS 5296 – Monthly Foster Care Record – Group Home Version

Final notes

Documentation and practice should mirror one another.

The state standard for having your documentation in its final form is **7 days**.

Exercise: Just the Facts!

The chart below contains a number of vague or conclusory statements on the left-hand side. Rewrite these statements to paint a behavioral, objective, vivid picture so that a person reading the statements would feel as if she had been there.

Vague or Conclusory Phrasing	Specific Description
The house was dirty.	The worker observed feces on the kitchen floor, unwashed dishes in the sink, and laundry waist-high along two of the four walls. The adjoining living room contained over twenty empty beer bottles and four full ashtrays. The toilet in the single bathroom appeared to be clogged. The two bedrooms each had several mattresses on the floor that had no sheets and that smelled strongly of urine. Feces were also present on one of the mattresses. The worker observed hundreds of roaches in all the rooms of the house.
Father displayed poor parenting skills.	Father ignored his three-year old daughter's requests for juice twice. After her third request, father shoved the child on the shoulder roughly and said, "You'd better get out of here!" When child began to cry, father swung an open hand toward her head and yelled, "Beat it!"
Parent was intoxicated.	
Child receives excellent care.	
Caretaker is not doing well.	
Parent is uncooperative.	
Father quite demanding.	
Child is bonded to parent.	
House is in poor condition.	

Siblings fuss at each other.	
Child has an attitude.	
She loves her child.	

Identify your favorite vague or conclusory comments, and then rewrite them.

Chapter: Juvenile Petitions

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Juvenile Petitions

Invoking the Jurisdiction of the Court

Abuse, neglect, or dependency petitions

When we substantiate an investigative assessment for abuse or serious neglect, we're saying that the legal definition has been satisfied by substantial evidence. With a family assessment, we decide the legal definition of neglect or dependency has been satisfied by credible evidence, but more importantly we're also deciding if families are in need of services, not in need of services, or if services are recommended but not required.

In cases where there are findings of a/n/d, most are resolved without involving the juvenile court. This is typically because the family receives services and the risk to the child is reduced; the person who abused or neglected the child is removed from the home; or the department's assessment indicates that it is safe for the child to remain in the home.

There are cases, however, in which court action becomes necessary to achieving safety and permanence for children. The juvenile court is the branch of the district court whose primary function is the hearing, evaluation, and disposition of cases involving children alleged to be delinquent, undisciplined, abused, neglected, or dependent. In order to *invoke the jurisdiction* of the court, i.e., to secure the court's involvement and assistance in the case, a *petition* must be filed.

A *petition* is a legal document that initiates a juvenile court case. When an assessment results in a determination that court action is needed to protect a child alleged to be abused, neglected, or dependent, the Director of DSS or his/her representative will draft a petition, have it verified before an official authorized to administer oaths, and filed by the clerk of court. Whether you draft the petition yourself or have an attorney do it, you need to know how a petition is drafted so that you gather the right information.

Petitions alleging abuse, neglect, or dependency must contain:

- *Identifying information*: The full names and addresses of the child[ren] and all parents, including last known addresses of a missing parent, guardian, or custodian;
- Plain and concise *allegations of fact* regarding the neglectful or abusive behavior of the parent, guardian, or caretaker;
- Plain and concise *allegations of fact* regarding the harm to the child[ren] and the severity of that harm;

- Allegations regarding the *connection* between the behavior of the parent, guardian, or caretaker and the child[ren]’s condition;
- Allegations regarding the *ability and willingness* of the parent, guardian, or caretaker to adequately care for the child[ren];
- Allegation of a parent’s *refusal of services*, if appropriate;
- *Reasonable efforts* made to avoid or eliminate the need for placement.

Petitions initiated by a county DSS shall allege all of the conditions that would invoke the jurisdiction of the court. Allegations shall contain enough information to make a legally valid case. Allegations should be broad enough to allow introduction of all evidence the agency considers important to the case.

Pleading in the alternative allows the judge to have as many bases for adjudication as possible. There may be facts in the case that support abuse *and* neglect [e.g., lack of supervision and physical abuse]; or, there may be *one* set of facts that could support either an abuse *or* neglect label [e.g., some instances of improper discipline]. The latter is *pleading in the alternative*. Allegations should only include what the agency believes to be facts in the case, not observations or opinions held by others unless their testimony can be secured.

Filing the petition does NOT give DSS custody. To get custody, DSS must also file a request for nonsecure custody. This initial “request” is made by filling out the necessary identifying information on the Order for Nonsecure Custody. Once signed by a judge, this order is effective and grants custody of the child to the agency.

Decisions, decisions

Do you ever go home from work and just veg out in front of the television or stare out a window? You do it because your brain is tired! You make decisions all day long. The following scenario demonstrates how many decisions you may need to make in a standard response to a report. For this demonstration, your supervisor has asked you to work assessments because the agency is short-handed:

Your agency receives a report of a three-year-old child home alone and crying for “a good while.” What do you do first? What do you need to know before you go? What (or who) do you take with you?

When you arrive, you can hear the child crying before your foot hits the porch. When you knock on the door, the crying stops. Do you go in? [G.S. § 7B-302(h)]

If at that point you think temporary custody is likely, what do you base that decision on? Is there anyone else you should talk to?

If the child is going back to the agency with you, do you gather any of his things from the house? What if it's cold out? Is there anything else you should do before leaving?

After you and the child are back at the agency, the child's mother arrives and says the babysitter must have left. The mother seems otherwise appropriate. Does she have the right to be with the child while your agency decides whether to file a petition? [G.S. § 7B-501(a)(1)]? Can you give the child back to her [G.S. § 7B-501(a)(2)]? What if it's not mom, but her live-in boyfriend who comes to the agency?

Say the mother shows up reeking of alcohol and cussing you out for taking her baby. Does this change anything? What if she wants to see the child then and there [G.S. § 7B-501(a)(1)]?

What about medical care for the child? If it seems appropriate, do you have the authority to obtain it?

How many difficult decisions have you made so far? Are you exhausted yet? And we haven't even started drafting the petition yet!

Recognizing that there is stress inherent in decision-making, giving yourself permission to truly relax away from work. Taking good care of yourself can all make the job a bit easier. So let's go ahead and draft that petition.

Exercise: Drafting the Juvenile Petition

Preliminary Facts:

Child's name:	Brian Smith	Mother:	Alice Smith
Gender:	Male	Address:	314 Walnut St., #3B
Race/Ethnicity:	White/Caucasian	Telephone:	None
DOB:	July 1 (3 y/o)	Marital status:	Estranged
Lives with:	Mother	Father:	Edward Smith, whereabouts unknown
School:	N/A		

Summary of the Case:

DSS receives a report from a neighbor who heard the child, Brian, crying for an extended period of time, and sends you to assess the situation. You call for law enforcement, but no one is available to assist you. When you arrive at the one-room efficiency apartment and knock, a crying child opens the door. You call out, but no one answers. You observe a number of beer bottles and overflowing ashtrays on the coffee table. Feces, a few broken bottles, and four or five piles of laundry are on the floor. Unwashed dishes are piled up in the kitchen sink and on the counters, and there are no clean dishes evident in the only cupboard that is open. The apartment smells of marijuana and urine. The only food visible in the home is a half-empty bag of Cheetos and an apple core. You knock at several doors in the building, but no one will answer. After a phone call to your agency and completion of a safety assessment (in so far as one is possible), you take Brian into temporary custody pursuant to § 7B-500. You leave a business card and a brochure so that the child's family will know where he is.

When you examine Brian, you observe three blue bruises as large as quarters, and four smaller, yellow ones, all on his buttocks. You also note an odd mark on his torso. This mark is about ¼ inch wide and four inches long, and doubled over in a loop shape. Brian won't tell you about the marks, but he does tell you that he has a stomachache. He also says that his mommy punched him because he had an accident in his underwear.

Alice Smith comes to your agency several hours later to reclaim Brian. She smells strongly of alcohol, speaks in a slurred voiced, her eyes appear glassy, and she stumbles twice while standing during your conversation. She denies being ill, on any medication, or under the influence of drugs or alcohol. She tells you she had just gotten her check and had run out to the grocery to get some food for Brian. Her neighbor had agreed to keep an eye on Brian. She says she hasn't seen her husband, Brian's father, for several years. She begins shouting and cursing when you refuse to release Brian into her custody, and she storms out of the agency.

After an examination, the doctor reports that the child has no current extreme conditions. However, from x-rays it appears that several of Brian's lower front ribs were previously broken and have since healed. The doctor also suspects that the loop mark was caused by an electrical cord.

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

**JUVENILE PETITION
(ABUSE/NEGLECT/DEPENDENCY)**

G.S. 7B-101, -400, -402

Juvenile's Date Of Birth Age Race Sex

Name Of Petitioner

Condition Alleged

Abused Neglected Dependent

I have sufficient knowledge or information to believe that a case has arisen that invokes the juvenile jurisdiction of the court, and therefore allege that:

1. The juvenile named above resides in the district at the address shown above, was found in the district as alleged herein, or venue exists pursuant to G.S. 7B-400(a) or (b).
2. The information required by G.S. 50A-209 is set out in the Affidavit As To Status Of Minor Child (AOC-CV-609), which is attached hereto and incorporated herein by reference.
3. The names, addresses, and telephone numbers of the juvenile's parents, guardian, custodian, or caretaker are as follows:

NAME	RELATIONSHIP OR TITLE	ADDRESS	TELEPHONE NO.

4. The juvenile is an abused juvenile, neglected juvenile, or dependent juvenile, as alleged more specifically below: *(Check only the blocks that apply.)*

- A. The juvenile is an **ABUSED JUVENILE**, in that the juvenile's parent, guardian, custodian, or caretaker:
- 1. has inflicted or allowed to be inflicted on the juvenile a serious physical injury by other than accidental means.
 - 2. has created or allowed to be created a substantial risk of serious physical injury to the juvenile by other than accidental means.
 - 3. has used or allowed to be used upon the juvenile cruel or grossly inappropriate devices or procedures to modify behavior.
 - 4. has committed, permitted, or encouraged the commission of a sex or pornography offense with or upon the juvenile in violation of the criminal law.
 - 5. has created or allowed to be created serious emotional damage to the juvenile.
 - 6. has encouraged, directed, or approved of delinquent acts involving moral turpitude committed by the juvenile.
 - 7. has committed or allowed to be committed an offense of human trafficking, involuntary servitude, or sexual servitude against a child.

Specifically, on or about *(date or time period)* _____: *(State facts supporting allegations that the juvenile is an abused juvenile as indicated above. Attach additional pages if necessary.)*

(See reverse side for additional allegations)

- B. The juvenile is a **NEGLECTED JUVENILE**, in that the juvenile:
- 1. does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker.
 - 2. has been abandoned.
 - 3. is not provided necessary medical care.
 - 4. is not provided necessary remedial care.
 - 5. lives in an environment injurious to the juvenile's welfare.
 - 6. has been placed for care or adoption in violation of law.

Specifically, on or about (date or time period) _____: (State facts supporting allegations that the juvenile is a neglected juvenile as indicated above. Attach additional pages if necessary.)

- C. The juvenile is a **DEPENDENT JUVENILE**, in that:
- 1. the juvenile needs assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision.
 - 2. the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.

Specifically, on or about (date or time period) _____: (State facts supporting allegations that the juvenile is a neglected juvenile as indicated above. Attach additional pages if necessary.)

I request the Court to hear the case to determine whether the allegations are true and whether the juvenile is in need of the care, protection, or supervision of the State.

VERIFICATION

Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<i>Name And Address Of Petitioner</i>
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>	
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> District Court Judge <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Magistrate		<i>Signature Of Petitioner</i>
<input type="checkbox"/> Notary	<i>Date My Commission Expires</i>	<i>Telephone No.</i>
SEAL	<i>County Where Notarized</i>	<input type="checkbox"/> Director <input type="checkbox"/> Authorized Representative Of Director _____ County Department of Social Services

WITNESS(ES)

NAME	ADDRESS	TELEPHONE NO.

Service of process

So now we have our petition – what do we do with it? We file it with the court and get it “served” on the parties.

We’ve discussed the importance of *due process* [fair procedures]. A key element of due process is the right of a citizen to receive *notice* of proceedings involving the welfare or governmental custody of their children. The notice to parties in a child protection case is provided through *service*, meaning delivery of a copy of the petition, and a *summons*. A summons is a document telling the respondents the nature of the proceedings and requiring them to appear for a hearing at a specified time and place. A summons, with the petition attached, must be issued to *all* of the appropriate parties immediately after the petition has been filed. These are issued by the clerk of court; in small counties, the worker may need to take the petition and summons to sheriff’s office for service. Social workers do NOT serve the petitions on the parties; law enforcement does.

Personal service, that is, a sheriff’s deputy or other law enforcement actually handing someone the papers, is the preferred method, but is not always possible or required. Service by registered or certified mail or FedEx or UPS is also legitimate. Although publishing a notice in the newspaper may be the only means available in some cases, workers must first make diligent efforts to identify and locate all parties. It is especially important to understand the legal importance of fathers – legal, biological, putative – even if they are not around.

Servicemembers Civil Relief Act

North Carolina has the fourth largest military population in the country. This means that many parents may be deployed or their military service may in some other way impact their ability to participate in juvenile proceedings.

If a parent has not made an appearance in a child welfare case, the social worker should inquire as to whether the parent is a servicemember. This means that the social worker should ask relatives or other people who may know the parent; check with Child Support to see if that agency has information on file regarding the parent’s military service; and conduct a search on the Department of Defense’s website (<https://scra.dmdc.osd.mil/>).

If a parent has not appeared in court, an affidavit must be filed before the court can enter a judgment. If the affidavit shows that the parent **is not** in the military, the court may proceed as usual. If the affidavit shows that the parent **is** in the military, the court must appoint an attorney for that parent. The attorney is required to locate the

parent-servicemember, determine whether the parent-servicemember has a defense for not appearing, and decide whether to seek a stay of the court action.

For more information, see *On the Civil Side: A UNC School of Government Blog*, [The SCRA and Juvenile Proceedings](http://civil.sog.unc.edu/the-scra-and-juvenile-proceedings/), <http://civil.sog.unc.edu/the-scra-and-juvenile-proceedings/> (last visited July 21, 2016).

Other Petitions

Other petitions filed by DSS include:

A petition to prohibit interference with or obstruction of an assessment. G.S. § 7B-303 is an important tool for assessments; however, it is not available for an uncooperative parent in case planning/case management.

A petition seeking termination of parental rights. See G.S. § 7B-1104; also can be done as “motion in the cause” rather than as petition.

A petition to review a voluntary placement. See G.S. § 7B-910.

Chapter: Juvenile Hearings and Court Reports

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Hearings

Moving Toward Permanence

Nonsecure custody hearing

N.C.G.S. § 7B-503

- Initial “hearing” requesting order for nonsecure custody is accompanied by a petition alleging a/n/d.
- This request can be made by telephone under N.C.G.S. § 7B-508, and can be issued by someone other than a district court judge if there is an order from the chief district court judge to that effect under § 7B-502 (e.g., a magistrate).

Hearing on the need for continued nonsecure custody

N.C.G.S. § 7B-506

- First hearing is within 7 days after the first NSC (but can be continued up to ten business days if *everyone* consents). The 7-day hearing cannot be waived, as it is the first opportunity for the court to make findings as to the agency’s reasonable efforts.
- Subsequent hearing is 7 days later, and then every 30 days after that until adjudication/disposition and can be waived (and, in fact, usually are).
- Court is obliged at these hearings to inquire about efforts made to establish paternity if unresolved.

Adjudicatory hearing

N.C.G.S. §§ 7B-802, 7B-805

- Hearing on the petition, where the burden is on DSS to prove the allegations of a/n/d “by clear, cogent and convincing evidence.”
- Must be held within 60 days of the filing the petition per N.C.G.S. § 7B-801(c), unless the judge orders a continuance because additional information is needed as described in N.C.G.S. § 7B-803.

Dispositional hearing

N.C.G.S. § 7B-901

- Court decides what is in the best interests of the child in the wake of the a/n/d determination.
- Must be completed within 30 days of the end of the adjudication.
- At this point court may consider court reports regarding social, medical, psychiatric, psychological and educational information per N.C.G.S. § 7B-808.

Review hearing

N.C.G.S. § 7B-906.1

- Again, court considers what is in best interests of child, looks at progress of parents and DSS service provision.
- Held within 90 days of dispositional hearing, then every six months after that.
- After a year, review hearings can be waived or decreased if certain requirements are met.

Permanency planning hearing

N.C.G.S. § 7B-906.1

- Court develops a plan to achieve safe, permanent home within a reasonable period of time.
- Must occur within 12 months of the agency taking custody or within 30 days of court determination that reasonable efforts are not required, whichever comes first (see § 7B-901). Can be combined with other reviews.
- If child has been in foster care 12 of the last 22 months, agency must file for TPR unless court makes specific findings why TPR is not in child's best interests. (While the federal law requires this to occur no later than 15 of 22 months of care, North Carolina has chosen to start TPR no later than 12 of 22 months.)

Termination of parental rights

N.C.G.S. §§ 7B-1109, 7B-1110, 7B-1112

- Relieves parent of responsibilities and rights of parenthood if there are sufficient grounds to terminate and termination is in the child's best interest.
- Shall be held within 90 days of filing the petition or motion for TPR.
- Severs the legal relationship between the parent and the child. The former parent no longer has any say about adoption or placement. The former parent has no on-going obligation to provide support for the child, but is still responsible for any child support arrearages that accrued while he or she was still a legal parent.

Post-TPR placement review

N.C.G.S. § 7B-908

- Court assures that every reasonable effort is being made to provide for a permanent placement plan in light accomplishment of TPR.
- Held every six months after TPR until an adoption is finalized. May be combined with other reviews.

Court Hearings in Abuse, Neglect, and Dependency Cases

Source: NC Guardian ad Litem Attorney Practice Manual, 2007 Edition

Statute/Event	Timing	Criteria or Factors Considered (Consult statute. List below may be highlights only.)	Procedural Requirements	Decisions to Be Made
<p>Initial Non-Secure Custody Order 7B-500, 7B-502 7B-503, 7B-504 7B-505</p>	<p>Upon motion for nonsecure custody brought by DSS or GAL. The initial nonsecure custody order may be granted as the result of a hearing or may be an ex parte order.</p>	<p>Criteria that must be met: <ul style="list-style-type: none"> • reasonable factual basis to believe matters alleged in petition are true, • no other reasonable means available to protect the juvenile, • must first consider release of juvenile to parent, relative, guardian, custodian, or other responsible adult, • must consider whether it is in the juvenile's best interest to remain in his or her community of residence, • must find that the juvenile meets one of the following criteria: <ul style="list-style-type: none"> 1. has been abandoned 2. has suffered physical injury or sexual abuse 3. is exposed to substantial risk of physical injury or sexual abuse . . . 4. is in need of medical treatment . . . 5. the parent, guardian, or custodian consents to nonsecure custody 6. the juvenile is a runaway and consents to nonsecure custody </p>	<p>Statute does not set forth a burden of proof but merely states the criteria for a nonsecure custody order.</p>	<p>The judge must determine whether the child should be removed from the custody of the parent or caretaker. <p>If so, where the child should be placed pending adjudication.</p> <p>The judge cannot dismiss the petition at the nonsecure stage, but DSS can.</p> <p>[Note that temporary custody under 7B-500 and 7B-501 is possible without a nonsecure custody order under certain circumstances and where the child might be injured or could not be taken into custody if it were first necessary to obtain a court order. A hearing must be held within 12 hours or 24 if on a weekend.]</p> </p>
<p>Non-Secure Custody Hearings 7B-500, 7B-502 7B-503, 7B-504 7B-505, 7B-506, 7B-507</p>	<p>Nonsecure custody hearing must be within 7 days after removal. After initial hearing, 2nd hearing within 7 days, then within 30 day intervals.</p>	<p>The judge applies the same criteria set out above from 7B-503 to determine the need for an initial order of nonsecure custody and orders continuing nonsecure custody.</p> <p>Reasonable efforts findings pursuant to 7B-507 must be made when an order placing or continuing the placement of the child in the custody or placement responsibility of DSS is made.</p>	<p>Burden of proof is on DSS, and the standard of proof is by clear and convincing evidence.</p> <p>Nonsecure custody hearings are informal and the formal rules of evidence need not apply.</p>	<p>The judge must decide whether the child should be in nonsecure custody or remain in nonsecure custody and where the child should be placed.</p> <p>Whether reasonable efforts have been made or whether the court may order such efforts to be unnecessary or to cease due to the presence of certain circumstances set out in 7B-507</p>

Statute/Event	Timing	Criteria or Factors Considered	Procedural Requirements	Decisions to Be Made
<p>Adjudicatory Hearing 7B-801, 7B-802, 7B-805, 7B-807, 7B-902</p>	<p>Must be heard within 60 days of the date of the filing of the petition unless the judge finds good cause for continuance.</p>	<p>Whether the allegations in the petition are proven by clear and convincing evidence. (Whether the child is in fact abused, neglected, or dependent as defined by 7B-101.)</p>	<p>The allegations in the petition must be proven by clear and convincing evidence. The formal rules of evidence in civil cases are applicable. The burden of proof is on DSS.</p>	<p>The judge must decide whether the allegations in the petition have been proved by clear and convincing evidence. If so, the juvenile is adjudicated abused, neglected, or dependent. If not, the judge must dismiss the petition. If there is an adjudication, the judge must decide whether to proceed immediately to disposition or set a date for a dispositional hearing.</p>
<p>Dispositional Hearing 7B-900, 7B-901, 7B-903</p>	<p>Should be heard immediately following adjudication but can be postponed pending necessary collection of information.</p>	<p>What must happen in order to accommodate the best interests of the child or children and to achieve a safe, permanent home within a reasonable period of time? Whether reasonable efforts have been made or whether the court may order such efforts to be unnecessary or to cease due to the presence of certain circumstances set out in 7B-507.</p>	<p>Hearing may be informal (with respect to Rules of Evidence) and the court can consider hearsay evidence that is relevant and reliable. The statute does not place the burden of proof on any party but states that sufficient evidence must be presented to enable the court to make a determination regarding best interest.</p>	<p>The judge must decide whether the child should be returned home or placed outside the home according to the best interests of the child. The judge must also determine:</p> <ul style="list-style-type: none"> • where the child should be placed • what services the child should receive • what services the parent(s) should receive • what kind of visitation is appropriate • what directives to make to the parent concerning expected changes or accomplishments on the part of the parent that would place him or her in a better position to care for a child (but cannot order parent to do things unless statute permits) • any other details pertaining to the above or to the needs of the child or parents.

Statute/Event	Timing	Criteria or Factors Considered	Procedural Requirements	Decisions to Be Made
<p>Review Hearings 7B-903, 7B-906</p>	<p>Must be held within 90 days from date of the dispositional hearing if child is removed; every 6 months thereafter.</p>	<p>Same considerations as for dispositional hearings, plus the court will consider the following:</p> <ul style="list-style-type: none"> • Whether certain services have been provided, what the response has been to such services, and whether additional services are needed. • Whether the parent has complied with court directives. 	<p>Same procedural requirements as for dispositional hearings.</p>	<p>Same decisions as in dispositional hearings.</p>
<p>Permanency Planning Hearing 7B-907</p>	<p>In cases of removal, required within 12 months after initial order removing child, and subsequent hearings are at least every 6 months thereafter.</p> <p>Also required within 30 days of a judge's decision in any hearing that reasonable efforts are not required or shall cease.</p>	<p>(1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;</p> <p>(2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;</p> <p>(3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued, and if so, any barriers to the juvenile's adoption;</p> <p>(4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain in the current placement or be placed in another permanent living arrangement and why;</p> <p>(5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;</p> <p>(6) Any other criteria the court deems necessary.</p>	<p>Same as for dispositional and review hearings.</p> <p>May be combined with regular review hearing, but must meet requirements of 7B-907.</p>	<p>The judge must make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time. The judge may make any disposition authorized by 7B-903.</p> <p>Whether reasonable efforts have been made or whether the court may order such efforts to be unnecessary or to cease due to the presence of certain circumstances set out in 7B-507.</p> <p>If the child is not returned home, the judge shall enter an order directing DSS to carry out the plan and document the steps in the plan.</p> <p>If the child has been outside the home for 12 of most recent 22 months or meets any other criteria set out in 7B-907(d), the judge shall order DSS to initiate TPR proceedings unless the exceptions in 7B-907(d) are met. Such TPR petition shall be filed within 60 days of the permanency planning hearing.</p>

Statute/Event	Timing	Criteria or Factors Considered	Procedural Requirements	Decisions to Be Made
<p>Termination of Parental Rights Hearing 7B-1100 through 7B-1112</p>	<p>DSS ordered or required to initiate termination proceedings in cases involving certain circumstances set out in 7B-907(d) or upon the initiative of DSS or the GAL when circumstances warrant termination.</p> <p>Must be held within 90 days of filing petition or motion for termination (effective for actions pending or filed on or after 1/1/02)</p>	<p>Are facts sufficient to show that grounds for terminating the parental rights of the parent exist as set out in 7B-1111?</p> <p>Whether or not grounds exist, is it in the best interests of the child to terminate parental rights?</p>	<p>The termination hearing is a bifurcated process. First, there is an adjudicatory hearing to determine whether grounds for termination exist. At the adjudicatory hearing the formal rules of evidence apply, the burden is on DSS, and the standard is by clear, cogent and convincing evidence.</p> <p>Following adjudication is the dispositional phase of the case where the court makes a determination as to best interest. The petitioner does not carry a burden, the court makes a discretionary determination, and the formal rules of evidence may not apply.</p>	<p>The judge must determine whether grounds for termination exist and whether it is in the best interest of the child to terminate.</p> <p>If a determination is made that grounds do not exist or that it is not in the best interest of the child to terminate, the judge must dismiss the case.</p> <p>The judge must decide where the child should be placed.</p>
<p>Post-termination of parental rights placement court review 7B-908</p>	<p>Within 6 months of the date of termination and every 6 months thereafter until child is adopted.</p>	<ol style="list-style-type: none"> 1. The adequacy of the plan developed by DSS or a child-placing agency for a permanent placement relative to the child's best interest and the efforts of the department or agency to implement such plan; 2. Whether the child has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency; and 3. The efforts previously made by DSS or other agency to find a permanent home for the child. 	<p>Procedural requirements are the same as in dispositional and review hearings.</p> <p>Hearing may be informal (with respect to Rules of Evidence) and the court can consider hearsay evidence that is relevant and reliable.</p>	<p>The court, after making findings of fact, shall affirm the plans for the child or require specific additional steps which are necessary to accomplish a permanent placement which is in the best interests of the child.</p> <p>The court has the authority to make any dispositional option provided in 7B-903.</p>

Juvenile Case Statutory Timeline

Source: NC Guardian ad Litem Attorney Practice Manual, 2007 Edition
(statute citations revised August 2016)

- Day 0 Juvenile petition filed and nonsecure custody order entered.
- Day 7 Initial hearing to determine the need for continued nonsecure custody per N.C.G.S. § 7B-506; subsequent hearing held within 7 days and then at 30-day intervals.
- Day 60 Adjudication hearing no later than 60 days from filing per § 7B-801, unless the hearing is continued per § 7B-803.
- Day 90 Disposition should take place immediately after adjudication, but if not, it shall be concluded within 30 days of the adjudication hearing per § 7B-901.
- Day 180 Review of the custody order per § 7B-906.1 must be held within 90 days of disposition with a subsequent review within 6 months.
- Day 365 Permanency planning hearing must be held within 12 months of the initial order removing custody, and may be combined with reviews under § 7B-906.1, with subsequent permanency planning hearings at least every 6 months.

TPR Timeline

- Day 0 TPR petition or motion filed (note: if permanent plan is adoption and reunification efforts cease, TPR must be filed within 60 days of PPH order)
- Day 90 TPR hearing held no later than 90 days from filing.
- Day 270 Post-TPR review hearing held 6 months after TPR entered.
- Day 450 Additional post-TPR hearings held every 6 months until adoption decree is entered.

Entry of Juvenile Orders

Juvenile orders by statute must be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered timely, the juvenile clerk should put the matter on the calendar for entry to allow the court to resolve the delay. The order is then required to be entered within 10 days following this hearing.

Continuances

Hearings may be continued for “good cause” to receive additional evidence, reports, or assessments requested by the court, or other information in the child’s best interest and to allow reasonable time for expeditious discovery (90-limit in TPR). Otherwise, continuances should only be granted in “extraordinary circumstances” when necessary for the proper administration of justice or in the best interest of the juvenile. (TPR requires written order).

Drafting Court Reports

Guidelines about drafting court reports can be found in the Family Support and Child Services Manual, Chapter X: The Juvenile Court and Child Welfare. The Division of Social Services also provides Model Court Reports which can be found at the NC DHHS forms website and in the Legal Forms section of this manual.

The child welfare worker's thorough preparation for court is a factor critical to effective and timely juvenile court decisions. The court report and the social worker's testimony must accurately reflect the agency's knowledge of the child and family. The contents of court reports may differ according to the requirements of the Juvenile Court district. However, the purposes are consistent: to document the agency's findings; to determine risk of further harm; to plan goals and activities intended to correct the conditions that led to the request for custody and/or removal; and to recommend judicial action.

It is strongly recommended that court reports be shared with all parties involved in any court action (including the respondent's attorney, the Guardian ad Litem and the Attorney Advocate, etc.) before the day of court. The earlier this report can be shared among all parties the more likely that court hearings will proceed in a timely manner and with fewer continuances.

Disposition Hearing

The court report for the dispositional hearing should contain the following:

- reasonable efforts made by the agency to prevent removal or to reunify children and families after removal when reunification is the plan;
- the current status of other juveniles who were living in the home from which the juvenile was removed and services provided for the protection of these juveniles;
- the identity and location of any missing parents and the agency's specific attempts to locate and serve them;
- information about relatives or other kin who are willing and able to provide proper care and supervision for the child in a safe home. This includes a formal assessment and recommendation of appropriate relatives as well as justification when recommended relatives are not being considered as placement resources;
- description of the parents' response to agency intervention and to services provided;
- description of the types, location, and frequency of visitation and parental functioning observed during the visits; and
- recommendations regarding services to be provided and specific expectations of parental changes prior to return of custody.

Dispositional Review Hearings

Court reports for review hearings inform the court about whether the family has made progress with services and toward the court-ordered plan (see N.C.G.S. § 7B-906.1). The court report should contain the following information describing the agency's work with the family and the family's response to intervention since the last hearing, including:

- A description of progress or lack of progress toward achievement of the goals set forth in the previous court order and the Out-of-Home Family Services Agreement (DSS-5240);
 Consider:
 - would the agency remove the child today if the circumstances were as they are now?
 - has the agency remained focused on the critical risk issues identified by the reunification assessments?
 - have the expectations of the family changed due to previously unknown critical factors?
- Recommended changes to the visitation order, if any, based on a description of visits between the parent(s) and child(ren) that includes any positive changes and (if relevant) whether the agency would recommend unsupervised or trial home visits in the home at this time;
- A description of positive changes, and if appropriate, the reasons for lack of positive changes. A lack of positive changes could include the parent's inability or unwillingness to change. It could also include a lack of appropriate resources in the community to help the family or a statement explaining that the agency may not have had sufficient time to provide all needed services;
- A description of the efforts that the agency has made toward achievement of the permanent plan (reunification, adoption, etc.);
- The status of alternative permanency plans that are being developed or may be explored and recommended changes to the primary permanency plan goal (concurrent planning), when appropriate; and
- Finally, depending at which stage the review hearing may be occurring, the report may need to address whether there are grounds for Termination of Parental Rights and whether it is in the best interests of the child to begin proceedings for TPR.

Permanency Planning Hearing

This court hearing is held to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time (see N.C.G.S. § 7B-906.1). In addition to the information in a disposition review hearing court report, above, a permanency planning hearing court report should include the following information:

- Reasonable efforts made by the agency toward reunifying the child and family OR if the permanent plan is other than reunification, efforts made by the agency toward achievement of that plan;
- Whether it is possible for the juvenile to be returned home immediately or within the next six months and, if not, why return home is not in the juvenile’s best interests;
- When return home is unlikely within the next six months, information about relatives or other suitable persons who are willing to adopt, become legal guardian of the person of the juvenile or legal custodian of the child; and
- When return home is unlikely within six months, whether the permanency plan goal should be changed and whether the juvenile should remain in the same placement or be placed in another placement and why.

Post-Termination of Parental Rights Review

As required under N.C.G.S. § 7B-908, Post-Termination of Parental Rights Reviews are designed to “ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests.” Thus, these court reports shall contain:

- description of the efforts that the agency has made toward achievement of the permanent plan and the current status of the child;
- the steps taken by the agency to find an adoptive family for the child, including what recruitment efforts have occurred on behalf of the child, which listings have been posted to on state, regional, and national exchanges; and any completed or pending referrals made to private agencies;
- the results of the recruitment efforts; and
- any barriers to the implementation of the plan of adoption.

Chapter: Court Procedures

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Evidence

Admissibility of Evidence

Rules of Evidence

Some types of testimony, documents, and opinions could be less reliable and more prejudicial (unfairly harmful to a party's case) than others. To ensure that any evidence presented in cases is reliable, and to promote efficiency in court proceedings, there is a system of rules that governs the introduction of evidence.

Under the Rules of Evidence, all evidence must be **relevant** and **material**; that is, it must speak to an issue in the case or have a **logical connection** to the case, and the evidence cannot violate any of the other rules designed to exclude unreliable evidence.

In child welfare cases, the Rules of Evidence only apply at adjudication and the grounds portion of TPR (the two types of "trials" that occur). All other child welfare hearings are informal by statute, so the Rules of Evidence do not apply at those hearings.

Types of Evidence

Direct evidence – evidence that proves the issue in question; for example, eyewitness testimony about seeing the caretaker assault the child is direct evidence of abuse.

Circumstantial evidence – evidence from which a fact may be inferred; for example, evidence that no one but the caretaker was with the child for the previous three hours and then the child presented at the hospital with a spiral fracture is circumstantial evidence of abuse.

Introduction of Evidence

All evidence is introduced to the court through witnesses; a witness is someone who can testify about what connection the evidence has to the case.

There are two kinds of witnesses:

Fact witness – an individual who testifies about her direct perception or personal knowledge: what she saw, heard (with certain restrictions), smelled. Fact witnesses generally may not testify to their opinions.

Expert witness – an individual who is recognized as an expert by the court, based upon education and experience, as possessing knowledge and information beyond the general experience of the trier of fact. Unlike a fact witness, an expert witness is able to offer an opinion to the court once an appropriate foundation about how the expert reached her conclusion is established.

Forms of Evidence

Testimony – a witness’s statement in which she relates what she has directly perceived, or an expert renders an opinion.

Documents – records or other papers.

Demonstrative evidence – a representation to illustrate testimony, such as photographs of the child’s bruises or a schematic of the house.

Physical evidence – a tangible object, such as the belt used to strike the child. (The better practice is to take a photograph of the object and leave the thing itself for the police to collect as evidence for use in the juvenile case as well as in any criminal case that could result.)

Form of Questions

Direct examination – Series of questions asked by the party’s own attorney. Direct exam questions are open-ended and often general in nature. They are not “leading” questions; that is, they do not suggest what the answer should be. They are designed to highlight the witness and let the witness relate information relevant to the case. Often they take the form of, “What happened next?” or “What did you observe?”

Cross-examination – Series of questions asked by the attorney for the other side. Cross-exam questions are narrow and tightly focused. They are often leading in nature and suggest an answer. Rather than trying to elicit what the witness knows, the attorney tries to direct the responses the witness gives in an attempt to discredit the witness or expose a weakness in the case.

Objections to Questions

When an attorney thinks that a question asked by the other side breaks a rule of evidence or is otherwise impermissible, the attorney will interrupt by saying, “Objection.” This flags or “preserves” the issue as one that can be raised in an appeal, and it means the attorney is asking the judge to rule on whether the witness should be allowed to answer the question. When this happens, testimony must cease immediately. The judge might ask the attorney on what ground the objection is based, and then the judge rules on the objection:

“Overruled.” This ruling means the judge disagrees with the attorney who raised the objection, and the witness may answer the question that was originally asked.

“Sustained.” This ruling means the judge agrees with the objecting attorney that there is a problem with the original question. The other attorney must ask a new question before the witness may speak.

Common courtroom objections:

- Argumentative
- Asked and Answered
- Assuming Facts Not in Evidence
- Irrelevant
- Leading
- Unresponsive
- Compound Question

Hearsay

Hearsay is second-hand information. The witness does not know the information from direct observation, but knows it because she heard it from someone else (the original “declarant”) or read it. Because of its second-hand nature, hearsay is often unreliable. The general rule is that hearsay is excluded as evidence.

When you interview family members, collaterals, professionals, and others connected with a case, you are gathering evidence. Isn't it second-hand information? Looking at the legal definition of hearsay may help us understand the hearsay exclusionary rule.

The legal definition of hearsay is:

- A statement
- made out of court
- by the “declarant” (the person who made the statement. The witness heard the declarant make the statement, or the witness read the statement in something the declarant wrote)
- offered for its truth (that is, the statement itself is evidence of the very thing you want to prove).

Exceptions to the hearsay rule

Some information, despite being second-hand, is nonetheless reliable. These recognized forms of reliable hearsay are exceptions to the hearsay exclusionary rule, so they are allowed into evidence. There are 24 exceptions that can be used whether the declarant is available or not, and another five when the declarant is not available to testify. The following are the most important hearsay exceptions for child welfare practitioners.

Admission of a party

G.S. § 8C-1, Rule 801(d)

A statement made by a party to the action admitting the allegation or part of the allegation. Such evidence is viewed as reliable despite its hearsay nature, on that theory that no one would admit doing something they hadn't really done.

Excited utterance

G.S. § 8C-1, Rule 803(2)

A statement relating to a startling event made while the declarant was under the stress of the event. Such evidence is viewed as reliable, despite its hearsay nature, on that theory that the declarant was too stressed by the event to lie. Important for child welfare because case law holds that children can be “under the stress” of sexual abuse until they reach a point of safety, where they then confide about the abuse. *State v. Wade*, 155 N.C. App. 1, 573 S.E.2d 643, rev. den’d., 357 N.C. 169, 581 S.E.2d 444 (2003); *State v. Ford*, 136 N.C. App. 634, 525 S.E.2d 218 (2000).

Statements for medical diagnosis

G.S. § 8C-1, Rule 803(4)

A statement made to medical personnel to obtain medical care. Such evidence is viewed as reliable, despite its hearsay nature, on that theory that the declarant was motivated to tell the truth to ensure proper medical treatment.

Practice point for child welfare workers: at a CME, make sure child victim understands s/he is at the doctor’s for medical treatment and understands it is important to tell the truth to get good medical care. *State v. Hinnant*, 351 N.C. 277; 523 S.E.2d 663 (2000), cert. den’d., 544 U.S. 982 (2005); *State v. Allen*, 359 N.C. 425, 615 S.E.2d 256 (2005).

Records of regularly conducted activity

G.S. § 8C-1, Rule 803(6)

Also known as the “business records exception.” A record kept by an individual with personal knowledge of the information recorded, while in the course of a regularly conducted “business” activity where it is the regular practice of the business to keep such records contemporaneously as demonstrated through the testimony (or affidavit, if all sides agree) of the custodian of the record. Such evidence is viewed as reliable, despite its hearsay nature, on that theory that the declarant was under a professional responsibility to keep the records accurately. This can include the records of DSS, law enforcement, hospitals, schools, public health, mental health and other medical providers.

Some social workers and attorneys find the need to actually get the custodian of the records to testify (or fill out an affidavit) about record-keeping practices to be cumbersome. However, think about what profession that record comes from. Who “owns” the information? Would you be comfortable with that profession testifying from your agency’s records?

Other exceptions

G.S. § 8C-1, Rule 803(24)

A statement not covered by any other exception, but one proven to the court’s satisfaction to be nonetheless trustworthy. Must give the other side notice and an opportunity to be heard on the admissibility of such a statement.

Exercise: Is It Hearsay?

Decide whether or not each of the following statements would be hearsay if testified to by a caseworker on the stand. If it is hearsay, determine whether there is an exception to the hearsay rule that might make it admissible.

1. The last time I saw Mr. Clark, he said that he understood that Bobby needed a full-time father, but he went away with his motorcycle group on a two-month trip.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

2. I have been a caseworker with the agency since July and I have been the caseworker for the Clark family since August.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

3. Ms. Perkins, the neighbor, told me that she saw the Clarks leave Bobby alone all night on two occasions.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

4. The case file notes made by Ms. Vogel, the earlier caseworker, indicated that when Ms. Vogel went to the Clark home on January 14, Bobby had welts all over his back.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

5. Ms. Clark missed three appointments to the mental health clinic.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

6. The case file notes made by Ms. Vogel, the earlier caseworker, indicated that according to the Clarks' neighbor, Ms. Perkins, the Clarks left Bobby alone all night on two occasions.

Hearsay? Yes _____ No _____ Admissible? Yes _____ No _____
Why? _____

How much evidence do you need?

There are three standards of proof:

Beyond a reasonable doubt – not beyond all doubt, but beyond any doubt that can be articulated and that is based upon reason. This is the standard of proof for prosecutors in criminal cases. It is the hardest legal standard to satisfy.

Clear and convincing evidence (or “clear, cogent and convincing”) – the intermediate standard of proof applicable to adjudication of a/n/d and grounds for TPR in child welfare cases in North Carolina. Not as difficult to prove as the criminal standard, but still hard to meet.

Preponderance of the evidence – the side with the greater weight of the evidence is the victor. This is the lowest standard of proof. It applies to civil (private) cases. Here, the side that proves that the bulk of the evidence favors its position wins.

Evidence particular to child victims

If a child will testify in court, the judge should conduct an inquiry called a *voir dire* (Latin for “to see and to hear”) to assess the child’s competence to provide evidence. The judge or the attorneys will ask questions of the child to determine if the child knows the difference between truth and lie, and whether he understands the idea of a promise to tell the truth. If he does, then his testimony can be accepted as evidence. *See* G.S. § 8C-1, Rule 601(b). There is no fixed age below which a witness is incompetent to testify. *State v. Sills*, 311 N.C. 370, 317 S.E.2d 379 (1984).

The attorneys cannot stipulate (agree) that the child is competent to testify, even if they think it’s perfectly clear the child is capable. The judge must decide that. *State v. Spaugh*, 321 N.C. 550, 364 S.E.2d 368 (1988); *State v. Fearing*, 315 N.C. 167, 337 S.E.2d 551 (1985).

If an expert witness testifies that the child suffers from “battered child syndrome,” there is a legal presumption that a parent was the cause of the child’s injury. *Sandstrom v. Montana*, 442 U.S. 510 (1979); *Mullaney v. Wilbur*, 421 U.S. 684 (1975); *State v. Phillips*, 328 N.C. 1; 399 S.E.2d 293 (1991).

An expert can also testify that a child is suffering from post-traumatic stress disorder or rape trauma syndrome only if the expert is the individual who treated the child and made the diagnosis on the basis of objective testing. *State v. Quarg*, 334 N.C. 92; 431 S.E.2d 1 (1993).

Case law does **not** permit the expert to testify that the child has, in fact, been sexually abused unless there is physical evidence of the abuse. *State v. Grover*, 354 N.C. 354, 553 S.E.2d 679 (2001); *State v. Stancil*, 355 N.C. 266; 559 S.E.2d 788 (2002); *State v. Bush*, 164 N.C. App. 254, 595 S.E.2d 715 (2004).

Roles and Responsibilities

Who are the participants in the legal system in child welfare cases and what do they do?

Social workers

Social workers need to know something about just about everything. Some of the roles social workers fill are: teacher, counselor, advocate, negotiator, financial planner, babysitter, “bad guy,” advisor. Court is no different – social workers fulfill many roles in court just as in the rest of the profession. Some of the roles of social workers in court are: case builder, negotiator, advocate, coordinator, witness. When a social worker testifies in a case in which it is necessary to say negative things about a family, it’s not personal – it’s just a part of the social worker’s job.

Guardians ad Litem

Guardians ad Litem (GAL) are volunteer citizens who do not suffer the constraints of having to satisfy a large organization or consider systemic problems. A GAL volunteer’s focus is the best interest of the individual child assigned to that GAL volunteer. To do this job, a GAL has broad access to confidential information the GAL deems to be relevant to the case.

Attorneys

Everybody gets a lawyer: DSS, the child (in the form of a Guardian ad Litem Attorney Advocate), and each of the parents. The judge is also a lawyer.

DSS attorney

Client:	DSS (not DSS employees)
Responsibility:	Present the client-agency’s case in accordance with the client-agency’s wishes in so far as is legally reasonable.
Professional obligation:	Bring legally cognizable actions, not to allow the client-agency’s wishes to compromise the attorney’s professional judgment.

GAL Attorney - Guardian ad Litem Attorney Advocate

Client:	The Guardian ad Litem Program, which represents the child's best interests
Responsibility:	Act in accordance with the child’s best interests, even if that conflicts with what the child wants, although the GAL attorney advocate will convey the child’s wishes to the Court.
Professional obligation:	Allow the client-agency’s wishes, the guardian ad litem volunteer’s wishes, the child’s desires and DSS’s position to inform, but not compromise, the attorney’s professional judgment about what is in the child’s best interest.

Parent's attorney

Client:	Parent, regardless of whether the attorney is privately hired by the parent or assigned because the parent is indigent.
Responsibility:	Pursue the parent's wishes zealously, regardless of whether those wishes are in the child's best interest or even the parent's best interest; to vigorously cross-examine the agency's witnesses. (So when a parent's attorney cross-examining a social worker asks tough questions, is that personal? No, it is not about you; it's just a part of the attorney's job.)
Professional obligation:	Not allow the client-parent's wishes or the attorney's personal belief about what is best for the family compromise the attorney's professional judgment about what the parent wants to see happen.

Parent's guardian ad litem attorney

Client:	Parent who is underage, or parent who is incompetent or lacks capacity
Responsibility:	Assist the parent and the parent's attorney, ensuring the parent understands their rights and the gravity of the situation, assist the parent with consent orders, and ensure procedural due process requirements are met.
Professional obligation:	Understand their limited role and work within it.

Judge

Client:	None
Responsibility:	Preside over the case, rule on objections, determine admissibility of evidence, evaluate credibility of the witnesses, determine the facts and apply the law to those facts to render a just decision, draft an order reflecting that decision or review the attorney's draft of the order, sign the order and cause it to be filed within 30 days.
Professional obligation:	Not allow bias or personal opinion to influence decision.

Social Workers & Attorneys: Clashing Cultures

While social workers and attorneys have many values and goals in common, their training and professional norms may give them very different ideas about how to achieve the same outcome. Consider some of the following differences between the social work and legal cultures.

Social Workers	Attorneys
Thinking	
Broad focus	Narrow focus
Implicit rules	Explicit rules
Overall situation	Specific issues
Assessments & recommendations	Conclusions & arguments
Objective knowledge: clinical judgment	Objective knowledge: provable facts
Responsibilities	
Testify	Examine & cross-examine
Assure child's safety	Client's wishes
Assess needs & alternatives	Follow law & regulations
Develop case plan, obtain resources, write court reports, document progress	Monitor procedural matters to assure due process for all parties
Inform & educate the court about psychological matters	Provide full & fair representation for client; guide client to follow court's orders
Style	
Cooperate	Compete
Collaborate	Negotiate
Inclusive	Exclusive
Information sources: behavioral cues, intuition, interviewing skills, human dynamics, social history & probability	Information sources: legal proof, "hard facts," probative questioning, challenging premises & assumptions

Social Workers & GAL Volunteers

Common goals, different perspectives

The GAL program and DSS share common goals for children while representing slightly different perspectives. The GAL focuses on the best interests of the individual child before the court, as well as advocating for children's issues in the community. DSS focuses on the safety and well-being of the child and the strengthening of the family before, during, and after the court process.

Talk to the GAL *before* going to court!

Collaboration between the GAL and the caseworker is essential throughout the process, but any difference of opinion will appear more pronounced in the courtroom if DSS and the GAL fail to communicate beforehand. Prior to the hearing is the time to share perspectives on the case, intentions regarding presentation of evidence, and recommendations each intends to make to the court. This assures an opportunity to resolve disputed issues prior to court hearings before the judge ever hears of them, thus better meeting the needs of the child, moving the case more quickly toward resolution, and enhancing the professional appearance of both agencies.

Preparing for Court

Gathering & organizing material

Remember that you never know which cases may end up in court, so treat every case as if it will go to court. You should **gather and record relevant evidence** as well as **document findings and communications**. If there comes a point where legal action is necessary, be sure to **file a sound, legally defensible petition** and then **write a quality court report**. Finally, **keep clients and witnesses involved and informed**.

As you prepare for any legal proceeding, you will **spend some time reviewing your record** and notes to recall details. Your agency may not want you to take your actual case file to court unless it has been subpoenaed or already discovered. Discuss this with your supervisor or agency attorney prior to the day of the hearing. Prepare a summary from which you may testify.

If your file has been subpoenaed, one of the most helpful things you can do for yourself and the court is to **arrange in some logical order** the papers from which you will testify and an index to those materials. While chronological order is usually most efficient, particularly within sections of material, use whatever system works best for you. During your testimony, you may be asked to find a document or you may need to refresh your memory about an event, date, name, or other fact in the case. You will be permitted to do that, but it will be distracting to you and the judge if you must shuffle and fumble through a stack of papers. You will likely become embarrassed, very nervous—if you weren't already—and your effectiveness may be diminished.

Remember: you are the person who knows more about the case than anyone else in the courtroom. You will be much more comfortable and confident on the witness stand knowing that you can find everything you need to help others understand what the case is all about.

Summarizing important dates and details on a single page or a few index cards is another useful technique. Include, for example:

Dates: reported event; decision; assignment; case plan; home visits; visitation; drug screens; previous hearings and orders, etc.

Persons: victim children (include DOB, address); parent/caretaker/absent parent (age, addresses, employment); service providers; significant other collaterals.

Issues: patterns of (non-)compliance or progress.

Working with your attorney

Interact regularly. Make yourself accessible; return phone calls promptly.

Supply documents within agreed time frames.

Schedule regular, predictable conferences; keep to the schedule.

Define respective roles clearly: social workers determine case direction, while attorneys make legal judgments about how to present that case (or occasionally, that the case does not meet the legal standard for presentation)

Encourage your attorney's participation in CCPT, CFRT, case staffing, agency reviews, etc.

Learn whether and how your attorney is available at all times for emergency consults and interventions.

Understand your agency's procedures for decision-making and conflict resolution.

In the Courtroom

We are finally there; we're going to court. You have reviewed information and techniques to prepare you for this last step in the process. At this point, you must be able to communicate to the judge the critical facts in your case and present effectively the important evidence you have gathered.

A successful outcome may depend on some factors beyond your control: the preparation of your attorney; the efforts of the parent's attorney; and the judge hearing the case.

Your success as a witness, on the other hand, depends on factors *within* your control: most importantly, **your preparation** before going to court and **your appearance and attitude** when you appear in court. You should dress professionally and your grooming should be conservative. Your demeanor should be professional.

Testifying in court

You most likely will be called upon to testify in court during your career as a child welfare worker. Think about testifying as another form of conversation, albeit one that uses an odd set of rules. The following are practical suggestions for your preparation and presentation of effective testimony. Additionally, review the earlier section on Evidence (pp. 57-62).

Preparation

Review your case record and notes to refresh your memory and recall details.

Arrange the papers and documents in your file in logical order.

Examine any physical evidence so that you are able to identify it at trial.

Cooperate with your attorney. Review the case and your testimony with the agency attorney prior to the hearing or trial.

Presentation

It may be helpful for you to approach testifying in court as simply another form of conversation that occurs under an unusual set of rules. You have important information to convey to the court; but you will be asked to present it in response to a particular set of questions.

Listen carefully to each question.

Don't be hesitant to ask to have a question repeated or rephrased. If you do not hear or understand the entire question, ask to have it repeated.

Request clarification of a question that is confusing or otherwise unclear and you are uncertain as to its meaning. It is unwise to attempt to answer a question when you are unsure of what is being asked.

If the question is vague, it is perfectly okay to respond with, "Your question doesn't provide me with enough information to give you an answer."

Think before you answer the question. Accuracy, not speed, is paramount. Try taking two breaths before you answer. On the first breath, ask yourself, "Do I understand the question?" On the second breath, ask yourself, "Do I know the answer?"

Answer **only** the question asked. Do not ramble or volunteer other information. However, if the question asks for a "yes" or "no" answer but needs explanation, you should respond "yes" or "no" and then explain your response.

If the question contains a statement that is not true, you may **correct the misstatement** in your answer. For example:

Q: When you visited the home on Thursday, were both parents drunk?

A: I visited on *Monday*; only the mother was there and she appeared sober.

If there is an objection, **stop speaking** and wait for the judge's ruling. If *s/he overrules* the objection, you will be able to continue; if *s/he sustains* the objection, the attorney will have to ask a different question.

Do not guess. If you do not know the answer to a question, say so. Your credibility will be weakened if the opposing side questions your "guess." Admitting that you do not know the answer to certain questions may strengthen your credibility.

Speak clearly, slightly louder, and more slowly than in normal conversation. Your testimony must be heard and understood by the judge, the attorneys, and the court reporter. Direct your answer to the person asking the question.

Speak in everyday language; **avoid social work jargon** or acronyms. Avoid using words with which you are not familiar or that have a meaning other than their customary usage, e.g., "acting out."

Be courteous and professional at all times and maintain your composure. Try to project a sincere, dignified but warm appearance. Avoid humorous or sarcastic answers. Don't argue with the lawyers or the judge.

Remember: this is the agency's case, not something that belongs to you personally. If you disagree with the agency decision on a case, work that out before you get in the courtroom.

When possible, give positive, definite answers. Do not qualify or minimize your answer. Avoid saying "I think," "I believe," or "in my opinion" when you actually know the answer.

Tell the truth. Do not exaggerate or otherwise try to color your testimony. Nor should you attempt to conform your testimony to that of other witnesses. Although you may want a particular outcome in the case, you are a much more credible and effective witness if you are impartial.

Do not forget strengths. This includes bringing out points favorable to the parent(s). No parent will be *all* bad; acknowledging a parent's strengths, especially on direct examination, enhances your credibility.

Remain on the witness stand until you are excused, unless it is clear that you may step down without the judge's permission.

Cross-examination

Remember that impeaching or discrediting a witness whose testimony is unfavorable to the parent's case is the responsibility of the parent's attorney. It is part of the adversarial process. Do not take the questions or the attorney's demeanor personally, even if they seem mean or hurtful. **It's not about you.**

Remember all the points mentioned above regarding effective presentation. Do not allow the opposing attorney to shake your composure; do not allow yourself to become upset or angry. Judges are familiar with the histrionics of some attorneys on cross-examination and are rarely convinced by such tactics, especially when you are able to respond calmly and professionally.

Attorneys use a different approach to questioning witnesses on cross-examination than on direct examination. Being aware of it and anticipating a more aggressive tone and faster pace may allow you to be more comfortable on the witness stand.

Some tactics that you may encounter include:

- demanding a “yes” or “no” answer to a question that cannot be answered adequately in that way
- trying to rush you by asking quick, repetitive questions concerning small details to catch you in inconsistencies
- bringing out facts favorable to the parent(s) that you did not mention on direct examination
- suggesting details to you in long, leading questions
- asking questions with multiple parts (you should answer them one part at a time)
- attempting to elicit answers that may show bias or prejudice against the parent(s); inexperience; inattention; inaccurate recollection of events; inconsistencies; failure to provide assistance to the family
- trying to anger or upset you in an effort to make you look unprofessional

Remember: You know more about this case than anyone else in the room. There is no need to feel intimidated by the attorneys, the judge, or other witnesses. Remember the reason you are there: to protect the child. Your purpose is to communicate your knowledge of the case to the court clearly and effectively so that the court can protect the child too.

Chapter: Mock Adjudication

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Exercise: Direct & Cross-Examination

Imagine that you are preparing for the adjudicatory hearing for Brian Smith. Some of you will be assigned as DSS attorneys. In your role as a DSS attorney, develop several questions that a DSS attorney might ask a social worker on direct examination. Others of you will be assigned as parents' attorneys. In this role, develop several questions a parent's attorney might ask a social worker on cross-examination. All of you should be prepared to answer these questions. You may work in pairs for this exercise.

Preliminary Facts:

Child's name:	Brian Smith	Mother:	Alice Smith
Gender:	Male	Address:	314 Walnut St., #3B
Race/Ethnicity:	White/Caucasian	Telephone:	None
DOB:	July 1 (3 y/o)	Marital status:	Estranged
Lives with:	Mother	Father:	Edward Smith, whereabouts unknown
School:	N/A		

Summary of the Case:

DSS receives a report from a neighbor who heard the child, Brian, crying for an extended period of time, and sends you to assess the situation. You call for law enforcement, but no one is available to assist you. When you arrive at the one-room efficiency apartment and knock, a crying child opens the door. You call out, but no one answers. You observe a number of beer bottles and overflowing ashtrays on the coffee table. Feces, a few broken bottles, and four or five piles of laundry are on the floor. Unwashed dishes are piled up in the kitchen sink and on the counters, and there are no clean dishes evident in the only cupboard that is open. The apartment smells of marijuana and urine. The only food visible in the home is a half-empty bag of Cheetos and an apple core. You knock at several doors in the building, but no one will answer. After a phone call to your agency and completion of a safety assessment (in so far as one is possible), you take Brian into temporary custody pursuant to § 7B-500. You leave a business card and a brochure so that the child's family will know where he is.

When you examine Brian, you observe three blue bruises as large as quarters, and four smaller, yellow ones, all on his buttocks. You also note an odd mark on his torso. This mark is about $\frac{1}{4}$ inch wide and four inches long, and doubled over in a loop shape. Brian won't tell you about the marks, but he does tell you that he has a stomachache. He also says that his mommy punched him because he had an accident in his underwear.

Alice Smith comes to your agency several hours later to reclaim Brian. She smells strongly of alcohol, speaks in a slurred voiced, her eyes appear glassy, and she stumbles twice while standing during your conversation. She denies being ill, on any medication, or under the influence of drugs or alcohol. She tells you she had just gotten her check and had run out to the grocery to get some food for Brian. Her neighbor had agreed to keep an eye

on Brian. She says she hasn't seen her husband, Brian's father, for several years. She begins shouting and cursing when you refuse to release Brian into her custody, and she storms out of the agency.

After an examination, the doctor reports that the child has no current extreme conditions. However, from x-rays it appears that several of Brian's lower front ribs were previously broken and have since healed. The doctor also suspects that the loop mark was caused by an electrical cord.

Direct Examination Questions:

- 1.
- 2.
- 3.
- 4.

Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.

Exercise: Mock Adjudication Role Play

Now we will adjudicate the juvenile petition you drafted earlier, which means we will present evidence as to whether the child is abused, neglected, or dependent. You are limited to the information in the case study and the petition. **No making up facts!** Also, this is not a dispositional hearing, so you are not presenting evidence about what is in the best interest of this child.

Additional facts/information for this exercise:

DSS has ensured service of its petition upon all the relevant parties and now seeks to prove its allegations to the court by clear, cogent and convincing evidence.

The caseworker has been unable to locate the mother since she stormed out of the caseworker's office the night s/he took temporary custody of Brian.

The trainers will assign each of you to one of the following roles. Each team will have at least one person playing each of the roles listed. Keep playing your role, find your respective clients, attorneys, and allies, and get ready to go to court.

Caseworker – testifies as a witness with knowledge of ALL phases of the case; has not been able to locate the mother since she stormed out of the caseworker's office the night s/he took temporary custody of Brian.

DSS attorney – attempts to prove the allegations of the petition

GAL Attorney Advocate – advocates for Brian's best interest

Alice Smith, Brian's mother – contests the allegations

Mother's attorney – attempts to discredit the DSS allegations

Father's attorney – not able to say much because hasn't talked to client (omit the role of father for the purposes of this exercise)

Before you get started, spend a few moments thinking about your role and how you would prepare for an adjudicatory hearing if you were in this role. Consider the concerns this role/ person would have at the adjudicatory hearing; the outcome this person would want; strategies directed toward that outcome; and other people this person would need to meet with or might refuse to meet with before court. Feel free to take some notes on the pages provided.

Attorneys: think of the questions you need to ask to get everything into evidence that you need the judge to hear in order to make the argument you want to make. List the questions you will ask on direct and cross-examination, and then go through the direct examination questions with your client.

Social workers: try to imagine what it was like for the social worker in this case scenario. What did she see, hear, smell, and feel? What facts and observations are important for the judge to know? How would this social worker prepare for an adjudicatory hearing?

Mothers: think about the emotions a parent would be going through before an adjudicatory hearing. Think about the facts from the mother's perspective. Think about what this mother's limitations may be. What are her values? You may come up with explanations for some of the allegations, but make it realistic and don't explain the allegations away.

Finally, in real life, stipulations can reinforce the principles of partnership, but for the purposes of this exercise, no stipulations are allowed!

Notes:

Notes:

Notes:

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**Chapter 7B.
Juvenile Code.**

SUBCHAPTER I. ABUSE, NEGLECT, DEPENDENCY.

Article 1.

§ 7B-100. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents;
- (2) To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the juvenile, and the strengths and weaknesses of the family.
- (3) To provide for services for the protection of juveniles by means that respect both the right to family autonomy and the juveniles' needs for safety, continuity, and permanence; and
- (4) To provide standards for the removal, when necessary, of juveniles from their homes and for the return of juveniles to their homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their parents.
- (5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-140, s. 5.)

§ 7B-101. Definitions.

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
 - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
 - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
 - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
 - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree forcible rape, as provided in G.S. 14-27.21; second-degree forcible rape as provided in G.S. 14-27.22; statutory rape of a child by an adult as provided in G.S. 14-27.23; first-degree statutory rape as provided in

- G.S. 14-27.24; first-degree forcible sex offense as provided in G.S. 14-27.26; second-degree forcible sex offense as provided in G.S. 14-27.27; statutory sexual offense with a child by an adult as provided in G.S. 14-27.28; first-degree statutory sexual offense as provided in G.S. 14-27.29; sexual activity by a substitute parent or custodian as provided in G.S. 14-27.31; sexual activity with a student as provided in G.S. 14-27.32; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-205.3(b); and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others;
 - f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile; or
 - g. Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child.
- (2) Repealed by Session Laws 2015-136, s. 1, effective October 1, 2015, and applicable to actions filed or pending on or after that date.
 - (3) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department, any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only."
 - (4) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
 - (5) Repealed by Session Laws 2013-129, s. 1, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

- (6) Court. – The district court division of the General Court of Justice.
- (7) Court of competent jurisdiction. – A court having the power and authority of law to act at the time of acting over the subject matter of the cause.
- (7a) Criminal history. – A local, State, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, involving violence against a person.
- (8) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (8a) Department. – Each county's child welfare agency. Unless the context clearly implies otherwise, when used in this Subchapter, "department" or "department of social services" shall refer to the county agency providing child welfare services, regardless of the name of the agency or whether the county has consolidated human services, pursuant to G.S. 153A-77.
- (9) Dependent juvenile. – A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or (ii) the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.
- (10) Director. – The director of the county department of social services in the county in which the juvenile resides or is found, or the director's representative as authorized in G.S. 108A-14.
- (11) District. – Any district court district as established by G.S. 7A-133.
- (11a) Family assessment response. – A response to selected reports of child neglect and dependency as determined by the Director using a family-centered approach that is protection and prevention oriented and that evaluates the strengths and needs of the juvenile's family, as well as the condition of the juvenile.
- (11b) Investigative assessment response. – A response to reports of child abuse and selected reports of child neglect and dependency as determined by the Director using a formal information gathering process to determine whether a juvenile is abused, neglected, or dependent.
- (12) Judge. – Any district court judge.
- (13) Judicial district. – Any district court district as established by G.S. 7A-133.
- (14) Juvenile. – A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States.
- (15) Neglected juvenile. – A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

- (15a) Nonrelative kin. – An individual having a substantial relationship with the juvenile. In the case of a juvenile member of a State-recognized tribe as set forth in G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or a member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile.
- (16) Petitioner. – The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.
- (17) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (18) Reasonable efforts. – The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts means the diligent and timely use of permanency planning services by a department of social services to develop and implement a permanent plan for the juvenile.
- (18a) Responsible individual. – A parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile.
- (18b) Return home or reunification. – Placement of the juvenile in the home of either parent or placement of the juvenile in the home of a guardian or custodian from whose home the child was removed by court order.
- (19) Safe home. – A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect.
- (19a) Serious neglect. – Conduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse.
- (20) Repealed by Session Laws 2013-129, s. 1, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (21) Substantial evidence. – Relevant evidence a reasonable mind would accept as adequate to support a conclusion.
- (22) Working day. – Any day other than a Saturday, Sunday, or a legal holiday when the courthouse is closed for transactions.

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified. (1979, c. 815, s. 1; 1981, c. 336; c. 359, s. 2; c. 469, ss. 1-3; c. 716, s. 1; 1985, c. 648; c. 757, s. 156(q); 1985 (Reg. Sess., 1986), c. 852, s. 16; 1987, c. 162; c. 695; 1987 (Reg. Sess., 1988), c. 1037, ss. 36, 37; 1989 (Reg. Sess., 1990), c. 815, s. 1; 1991, c. 258, s. 3; c. 273, s. 11; 1991 (Reg. Sess., 1992), c. 1030, s. 3; 1993, c. 324, s. 1; c. 516, ss. 1-3; 1997-113, s. 1; 1997-390, s. 3; 1997-390, s. 3.2; 1997-443, s. 11A.118(a); 1997-506, s. 30; 1998-202, s. 6; 1998-229, ss. 1, 18; 1999-190, s. 1; 1999-318, s. 1; 1999-456, s. 60; 2005-55, s. 1; 2005-399, s. 1; 2009-38, s. 1; 2010-90, ss. 1, 2; 2011-183, s. 2; 2012-153, s. 2; 2013-129, s. 1; 2013-368, s. 16; 2015-123, s. 1; 2015-136, s. 1; 2015-181, s. 21.)

Article 2.
Jurisdiction.

§ 7B-200. Jurisdiction.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered.
- (3) Proceedings to determine whether a juvenile should be emancipated.
- (4) Proceedings to terminate parental rights.
- (4a) Proceedings for reinstatement of parental rights.
- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services.
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7B-302.
- (7) Proceedings involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes.
- (8) Proceedings by an underage party seeking judicial authorization to marry under Article 1 of Chapter 51 of the General Statutes.
- (9) Petitions for judicial review of a director's determination under Article 3A of this Chapter.

(b) The court shall have jurisdiction over the parent, guardian, custodian, or caretaker of a juvenile who has been adjudicated abused, neglected, or dependent, provided the parent, guardian, custodian, or caretaker has (i) been properly served with summons pursuant to G.S. 7B-406, (ii) waived service of process, or (iii) automatically become a party pursuant to G.S. 7B-401.1(c) or (d).

(c) When the court obtains jurisdiction over a juvenile as the result of a petition alleging that the juvenile is abused, neglected, or dependent:

- (1) Any other civil action in this State in which the custody of the juvenile is an issue is automatically stayed as to that issue, unless the juvenile proceeding and the civil custody action or claim are consolidated pursuant to subsection (d) of this section or the court in the juvenile proceeding enters an order dissolving the stay.
- (2) If an order entered in the juvenile proceeding and an order entered in another civil custody action conflict, the order in the juvenile proceeding controls as long as the court continues to exercise jurisdiction in the juvenile proceeding.

(d) Notwithstanding G.S. 50-13.5(f), the court in a juvenile proceeding may order that any civil action or claim for custody filed in the district be consolidated with the juvenile proceeding. If a civil action or claim for custody of the juvenile is filed in another district, the

court in the juvenile proceeding, for good cause and after consulting with the court in the other district, may: (i) order that the civil action or claim for custody be transferred to the county in which the juvenile proceeding is filed; or (ii) order a change of venue in the juvenile proceeding and transfer the juvenile proceeding to the county in which the civil action or claim is filed. The court in the juvenile proceeding may also proceed in the juvenile proceeding while the civil action or claim remains stayed or dissolve the stay of the civil action or claim and stay the juvenile proceeding pending a resolution of the civil action or claim. (1979, c. 815, s. 1; 1983, c. 837, s. 1; 1985, c. 459, s. 2; 1987, c. 409, s. 2; 1995, c. 328, s. 3; c. 462, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 23.2(c); 1998-202, s. 6; 1999-456, s. 60; 2001-62, s. 13; 2005-320, s. 1; 2005-399, s. 4; 2010-90, s. 3; 2011-295, s. 1; 2013-129, s. 2.)

§ 7B-201. Retention and termination of jurisdiction.

(a) When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years or is otherwise emancipated, whichever occurs first.

(b) When the court's jurisdiction terminates, whether automatically or by court order, the court thereafter shall not modify or enforce any order previously entered in the case, including any juvenile court order relating to the custody, placement, or guardianship of the juvenile. The legal status of the juvenile and the custodial rights of the parties shall revert to the status they were before the juvenile petition was filed, unless applicable law or a valid court order in another civil action provides otherwise. Termination of the court's jurisdiction in an abuse, neglect, or dependency proceeding, however, shall not affect any of the following:

- (1) A civil custody order entered pursuant to G.S. 7B-911.
- (2) An order terminating parental rights.
- (3) A pending action to terminate parental rights, unless the court orders otherwise.
- (4) Any proceeding in which the juvenile is alleged to be or has been adjudicated undisciplined or delinquent.
- (5) The court's jurisdiction in relation to any new abuse, neglect, or dependency petition that is filed. (1979, c. 815, s. 1; 1981, c. 469, s. 4; 1996, 2nd Ex. Sess., c. 18, s. 23.2(d); 1998-202, s. 6; 1999-456, s. 60; 2005-320, s. 2.)

§ 7B-202. Permanency mediation.

(a) The Administrative Office of the Courts shall establish a Permanency Mediation Program to provide statewide and uniform services to resolve issues in cases under this Subchapter in which a juvenile is alleged or has been adjudicated to be abused, neglected, or dependent, or in which a petition or motion to terminate a parent's rights has been filed. Participants in the mediation shall include the parties and their attorneys, including the guardian ad litem and attorney advocate for the child; provided, the court may allow mediation to proceed without the participation of a parent whose identity is unknown, a party who was served and has not made an appearance, or a parent, guardian, or custodian who has not been served despite a diligent attempt to serve the person. Upon a finding of good cause, the court may allow mediation to proceed without the participation of a parent who is unable to participate due to incarceration, illness, or some other cause. Others may participate by agreement of the parties, their attorneys, and the mediator, or by order of the court.

(b) The Administrative Office of the Courts shall establish in phases a statewide Permanency Mediation Program consisting of local district programs to be established in all

judicial districts of the State. The Director of the Administrative Office of the Courts is authorized to approve contractual agreements for such services as executed by order of the Chief District Court Judge of a district court district, such contracts to be exempt from competitive bidding procedures under Chapter 143 of the General Statutes. The Administrative Office of the Courts shall promulgate policies and regulations necessary and appropriate for the administration of the program. Any funds appropriated by the General Assembly for the establishment and maintenance of permanency mediation programs under this Article shall be administered by the Administrative Office of the Courts.

(c) Mediation proceedings shall be held in private and shall be confidential. Except as provided otherwise in this section, all verbal or written communications from participants in the mediation to the mediator or between or among the participants in the presence of the mediator are absolutely privileged and inadmissible in court.

(d) Neither the mediator nor any party or other person involved in mediation sessions under this section shall be competent to testify to communications made during or in furtherance of such mediation sessions; provided, there is no confidentiality or privilege as to communications made in furtherance of a crime or fraud. Nothing in this subsection shall be construed as permitting an individual to obtain immunity from prosecution for criminal conduct or as excusing an individual from the reporting requirements of Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102.

(e) Any agreement reached by the parties as a result of the mediation, whether referred to as a "placement agreement," "case plan," or some similar name, shall be reduced to writing, signed by each party, and submitted to the court as soon as practicable. Unless the court finds good reason not to, the court shall incorporate the agreement in a court order, and the agreement shall become enforceable as a court order. If some or all of the issues referred to mediation are not resolved by mediation, the mediator shall report that fact to the court. (2006-187, s. 4(a).)

§§ 7B-203 through 7B-299. Reserved for future codification purposes.

Article 3.

Screening of Abuse and Neglect Complaints.

§ 7B-300. Protective services.

The director of the department of social services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent.

Protective services shall include the screening of reports, the performance of an assessment using either a family assessment response or an investigative assessment response, casework, or other counseling services to parents, guardians, or other caretakers as provided by the director to help the parents, guardians, or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents, guardians, or caretakers, and to preserve and stabilize family life. (1979, c. 815, s. 1; 1981, c. 359, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 1; 1997-506, s. 31; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 2; 2015-123, s. 2.)

§ 7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.

(a) Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment,

shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

(b) Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.

(c) Repealed by Session Laws 2015-123, s. 3, effective January 1, 2016. (1979, c. 815, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 2; 1993, c. 516, s. 4; 1997-506, s. 32; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 3; 2013-52, s. 7; 2015-123, s. 3.)

§ 7B-302. Assessment by director; access to confidential information; notification of person making the report.

(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment of a juvenile or unlawful transfer of custody under G.S. 14-321.2, the director shall immediately initiate an assessment. When the report alleges abandonment, the director shall also take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not required. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child.

(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except under the following circumstances:

- (1) The department shall disclose confidential information to any federal, State, or local government entity or its agent, or any private child placing or adoption agency licensed by the Department of Health and Human Services, in order to

protect a juvenile from abuse or neglect. Any confidential information disclosed to any federal, State, or local government entity or its agent under this subsection shall remain confidential with the other entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.

- (1a) The department shall disclose confidential information regarding the identity of the reporter to any federal, State, or local government entity or its agent with a court order. The department may only disclose confidential information regarding the identity of the reporter to a federal, State, or local government entity or its agent without a court order when the entity demonstrates a need for the reporter's name to carry out the entity's mandated responsibilities.
- (2) The information may be examined upon request by the juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated.
- (3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the court, for in camera review, if the surrender is necessary to make the required determinations.
- (4) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review prior to releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (2) of this subsection.
- (5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700 of this Subchapter.

(a2) If the director, at any time after receiving a report that a juvenile may be abused, neglected, or dependent, determines that the juvenile's legal residence is in another county, the director shall promptly notify the director in the county of the juvenile's residence, and the two directors shall coordinate efforts to ensure that appropriate actions are taken.

(b) When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional setting is received, the director of the department of social services shall immediately ascertain if other juveniles live in the home, and, if so, initiate an assessment in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. When a report of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting such as a residential child care facility or residential educational facility is received, the director of the department of social services shall immediately ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision, and, if so, assess the circumstances of those juveniles in order

to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection.

(c) If the assessment indicates that abuse, neglect, or dependency has occurred, the director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the director shall immediately provide or arrange for protective services. If the parent, guardian, custodian, or caretaker refuses to accept the protective services provided or arranged by the director, the director shall sign a petition seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

(d) If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the director shall sign a petition that alleges the applicable facts to invoke the jurisdiction of the court. Where the assessment shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 5 of this Chapter.

(d1) Whenever a juvenile is removed from the home of a parent, guardian, custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical abuse, the director shall conduct a thorough review of the background of the alleged abuser or abusers. This review shall include a criminal history check and a review of any available mental health records. If the review reveals that the alleged abuser or abusers have a history of violent behavior against people, the director shall petition the court to order the alleged abuser or abusers to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist.

(e) In performing any duties related to the assessment of the report or the provision or arrangement for protective services, the director may consult with any public or private agencies or individuals, including the available State or local law enforcement officers who shall assist in the assessment and evaluation of the seriousness of any report of abuse, neglect, or dependency when requested by the director. The director or the director's representative may make a written demand for any information or reports, whether or not confidential, that may in the director's opinion be relevant to the assessment or provision of protective services. Upon the director's or the director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of the information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such an action, the custodian of the records shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this paragraph shall be set down for immediate hearing, and subsequent proceedings in the actions shall be accorded priority by the trial and appellate courts.

(f) Within five working days after receipt of the report of abuse, neglect, or dependency, the director shall give written notice to the person making the report, unless requested by that person not to give notice, as to whether the report was accepted for assessment and whether the report was referred to the appropriate State or local law enforcement agency.

(g) Within five working days after completion of the protective services assessment, the director shall give subsequent written notice to the person making the report, unless requested by

that person not to give notice, as to whether there is a finding of abuse, neglect, or dependency, whether the county department of social services is taking action to protect the juvenile, and what action it is taking, including whether or not a petition was filed. The person making the report shall be informed of procedures necessary to request a review by the prosecutor of the director's decision not to file a petition. A request for review by the prosecutor shall be made within five working days of receipt of the second notification. The second notification shall include notice that, if the person making the report is not satisfied with the director's decision, the person may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive the person's right to this notification, and no notification is required if the person making the report does not identify himself to the director.

(h) The director or the director's representative may not enter a private residence for assessment purposes without at least one of the following:

- (1) The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.
- (2) The permission of the parent or person responsible for the juvenile's care.
- (3) The accompaniment of a law enforcement officer who has legal authority to enter the residence.
- (4) An order from a court of competent jurisdiction. (1979, c. 815, s. 1; 1985, c. 205; 1991, c. 593, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 3; 1993, c. 516, s. 5; 1995, c. 411, s. 1; 1997-390, s. 3.1; 1998-202, s. 6; 1998-229, ss. 2, 19; 1999-190, s. 2; 1999-318, s. 2; 1999-456, s. 60; 2001-291, s. 1; 2003-304, s. 4.1; 2005-55, s. 4; 2006-205, s. 1; 2009-311, s. 1; 2012-153, s. 6; 2015-123, s. 4.)

§ 7B-303. Interference with assessment.

(a) If any person obstructs or interferes with an assessment required by G.S. 7B-302, the director may file a petition naming that person as respondent and requesting an order directing the respondent to cease the obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the assessment; shall include a concise statement of the basis for initiating the assessment, shall specifically describe the conduct alleged to constitute obstruction of or interference with the assessment; and shall be verified.

(b) For purposes of this section, obstruction of or interference with an assessment means refusing to disclose the whereabouts of the juvenile, refusing to allow the director to have personal access to the juvenile, refusing to allow the director to observe or interview the juvenile in private, refusing to allow the director access to confidential information and records upon request pursuant to G.S. 7B-302, refusing to allow the director to arrange for an evaluation of the juvenile by a physician or other expert, or other conduct that makes it impossible for the director to carry out the duty to assess the juvenile's condition.

(c) Upon filing of the petition, the court shall schedule a hearing to be held not less than five days after service of the petition and summons on the respondent. Service of the petition and summons and notice of hearing shall be made as provided by the Rules of Civil Procedure on the respondent; the juvenile's parent, guardian, custodian, or caretaker; and any other person determined by the court to be a necessary party. If at the hearing on the petition the court finds by clear, cogent, and convincing evidence that the respondent, without lawful excuse, has obstructed or interfered with an assessment required by G.S. 7B-302, the court may order the respondent to cease such obstruction or interference. The burden of proof shall be on the

petitioner.

(d) If the director has reason to believe that the juvenile is in need of immediate protection or assistance, the director shall so allege in the petition and may seek an ex parte order from the court. If the court, from the verified petition and any inquiry the court makes of the director, finds probable cause to believe both that the juvenile is at risk of immediate harm and that the respondent is obstructing or interfering with the director's ability to assess the juvenile's condition, the court may enter an ex parte order directing the respondent to cease the obstruction or interference. The order shall be limited to provisions necessary to enable the director to conduct an assessment sufficient to determine whether the juvenile is in need of immediate protection or assistance. Within 10 days after the entry of an ex parte order under this subsection, a hearing shall be held to determine whether there is good cause for the continuation of the order or the entry of a different order. An order entered under this subsection shall be served on the respondent along with a copy of the petition, summons, and notice of hearing.

(e) The director may be required at a hearing under this section to reveal the identity of any person who made a report of suspected abuse, neglect, or dependency as required by G.S. 7B-301.

(f) An order entered pursuant to this section is enforceable by civil or criminal contempt as provided in Chapter 5A of the General Statutes. (1987, c. 409, s. 1; 1993, c. 516, s. 6; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 5.)

§ 7B-304: Repealed by Session Laws 2003, c. 140, s. 1, effective June 4, 2003.

§ 7B-305. Request for review by prosecutor.

The person making the report shall have five working days, from receipt of the decision of the director of the department of social services not to petition the court, to notify the prosecutor that the person is requesting a review. The prosecutor shall notify the person making the report and the director of the time and place for the review, and the director shall immediately transmit to the prosecutor a copy of a summary of the assessment. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 6.)

§ 7B-306. Review by prosecutor.

The prosecutor shall review the director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or the juvenile's family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the director, may request the appropriate local law enforcement agency to investigate the allegations, or may direct the director to file a petition. (1979, c. 815, s. 1; 1981, c. 469, s. 7; 1993, c. 516, s. 7; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Health and Human Services.

(a) If the director finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and

coordinate a criminal investigation with the protective services assessment being conducted by the county department of social services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the director or the director's designee to appear before a magistrate.

If the director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile or child maltreatment, as defined in G.S. 110-105.3, in child care, the director shall notify the Department of Health and Human Services within 24 hours or on the next working day of receipt of the report.

The director of the department of social services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

(b), (c) Repealed by Session Laws 2015-123, s. 5, effective January 1, 2016. (1979, c. 815, s. 1; 1983, c. 199; 1985, c. 757, s. 156(s)-(u); 1991, c. 593, s. 2; 1991 (Reg. Sess., 1992), c. 923, s. 4; 1993, c. 516, s. 8; 1997-443, s. 11A.118(a); 1997-506, s. 33; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 7; 2015-123, s. 5.)

§ 7B-308. Authority of medical professionals in abuse cases.

(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

(b) Immediately upon receipt of judicial authority to retain custody, the physician, the administrator, or that person's designee shall so notify the director of social services for the county in which the facility is located. The director shall treat this notification as a report of suspected abuse and shall immediately begin an assessment of the case.

(1) If the assessment reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or alleviate physical distress or to prevent the juvenile from suffering serious physical injury, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian, or caretaker cannot be reached or, upon

request, will not consent to the treatment within the facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.

(2) In all cases except those described in subdivision (1) above, the director shall conduct the assessment and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator, or that person's designee may ask the prosecutor to review this decision according to the provisions of G.S. 7B-305 and G.S. 7B-306.

(c) If, upon hearing, the court determines that the juvenile is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and G.S. 7B-904.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7B-302.

(f) The procedures in this section are in addition to, and not in derogation of, the abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or administrator and a director of social services from following the procedures of G.S. 7B-301 and G.S. 7B-500 whenever these procedures are more appropriate to the juvenile's circumstances. (1979, c. 815, s. 1; 1981, c. 716, s. 2; 1995, c. 255, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 8.)

§ 7B-309. Immunity of persons reporting and cooperating in an assessment.

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services assessment, testifies in any judicial proceeding resulting from a protective services report or assessment, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed. (1979, c. 815, s. 1; 1981, s. 469, s. 8; 1993, c. 516, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 9.)

§ 7B-310. Privileges not grounds for failing to report or for excluding evidence.

No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial

proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications. (1979, c. 815, s. 1; 1987, c. 323, s. 1; 1993, c. 514, s. 3; c. 516, s. 10; 1995, c. 509, s. 133; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-311. Central registry; responsible individuals list.

(a) The Department of Health and Human Services shall maintain a central registry of abuse, neglect, and dependency cases and child fatalities that are the result of alleged maltreatment that are reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county directors of social services to the Department of Health and Human Services and shall be confidential, subject to rules adopted by the Social Services Commission providing for its use for study and research and for other appropriate disclosure. Data shall not be used at any hearing or court proceeding unless based upon a final judgment of a court of law.

(b) The Department shall also maintain a list of responsible individuals. The Department may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children. The name of an individual who has been identified as a responsible individual shall be placed on the responsible individuals list only after one of the following:

- (1) The individual is properly notified pursuant to G.S. 7B-320 and fails to file a petition for judicial review in a timely manner.
- (2) The court determines that the individual is a responsible individual as a result of a hearing on the individual's petition for judicial review.
- (3) The individual is criminally convicted as a result of the same incident involved in an investigative assessment response.

(c) It is unlawful for any public official or public employee to knowingly and willfully release information from either the central registry or the responsible individuals list to a person who is not authorized to receive the information. It is unlawful for any person who is authorized to receive information from the central registry or the responsible individuals list to release that information to an unauthorized person. It is unlawful for any person who is not authorized to receive information from the central registry or the responsible individuals list to access or attempt to access that information. A person who commits an offense described in this subsection is guilty of a Class 3 misdemeanor.

(d) The Social Services Commission shall adopt rules regarding the operation of the central registry and responsible individuals list, including procedures for each of the following:

- (1) Filing data.
- (2) Notifying an individual that the individual has been determined by the director to be a responsible individual.
- (3) Correcting and expunging information.
- (4) Determining persons who are authorized to receive information from the responsible individuals list.
- (5) Releasing information from the responsible individuals list to authorized requestors.
- (6) Gathering statistical information.
- (7) Keeping and maintaining information placed in the registry and on the

- responsible individuals list.
- (8) Repealed by Session Laws 2010-90, s. 4, effective July 11, 2010. (1979, c. 815, s. 1; 1993, c. 516, s. 11; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-456, s. 60; 2005-399, s. 2; 2010-90, s. 4; 2013-129, s. 3.)

§§ 7B-312 through 7B-319: Reserved for future codification purposes.

Article 3A.
Judicial Review; Responsible Individuals List.

§ 7B-320. Notification to individual determined to be a responsible individual.

(a) Within five working days after the completion of an investigative assessment response that results in a determination of abuse or serious neglect and the identification of a responsible individual, the director shall personally deliver written notice of the determination to the identified individual.

(b) If personal written notice is not made within 15 days of the determination and the director has made diligent efforts to locate the identified individual, the director shall send the notice to the individual by registered or certified mail, return receipt requested, and addressed to the individual at the individual's last known address.

(c) The notice shall include all of the following:

- (1) A statement informing the individual of the nature of the investigative assessment response and whether the director determined abuse or serious neglect or both.
- (1a) A statement that the individual has been identified as a responsible individual.
- (2) A statement summarizing the substantial evidence supporting the director's determination without identifying the reporter or collateral contacts.
- (3) A statement informing the individual that unless the individual petitions for judicial review, the individual's name will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.
- (4) A clear description of the actions the individual must take to seek judicial review of the director's determination.

(d) In addition to the notice, the director shall provide the individual with a copy of a petition for judicial review form. (2005-399, s. 3; 2010-90, s. 5; 2013-129, s. 4.)

§ 7B-321: Repealed by Session Laws 2010-90, s. 6, effective July 11, 2010.

§ 7B-322: Repealed by Session Laws 2010-90, s. 6, effective July 11, 2010.

§ 7B-323. Petition for judicial review; district court.

(a) Within 15 days of the receipt of notice of the director's determination under G.S. 7B-320(a) or (b), an individual may file a petition for judicial review with the district court of the county in which the abuse or serious neglect report arose. The request shall be by a petition for

judicial review filed with the appropriate clerk of court's office with a copy delivered in person or by certified mail, return receipt requested, to the director who determined the abuse or serious neglect and identified the individual as a responsible individual. The petition for judicial review shall contain the name, date of birth, and address of the individual seeking judicial review, the name of the juvenile who was the subject of the determination of abuse or serious neglect, and facts that invoke the jurisdiction of the court. Failure to timely file a petition for judicial review constitutes a waiver of the individual's right to a district court hearing and to contest the placement of the individual's name on the responsible individuals list.

(a1) If the director cannot show that the individual has received actual notice, the director shall not place the individual on the responsible individuals list until an ex parte hearing is held at which a district court judge determines that the director made diligent efforts to find the individual. A finding that the individual is evading service is relevant to the determination that the director made diligent efforts.

(b) The clerk of court shall maintain a separate docket for judicial review actions. Upon the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within 45 days from the date the petition is filed at a session of district court hearing juvenile matters or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of the hearing to the petitioner and to the director who determined the abuse or serious neglect and identified the individual as a responsible individual. Upon the request of a party, the court shall close the hearing to all persons, except officers of the court, the parties, and their witnesses. At the hearing, the director shall have the burden of proving by a preponderance of the evidence the abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. The hearing shall be before a judge without a jury. The rules of evidence applicable in civil cases shall apply. However, the court, in its discretion, may permit the admission of any reliable and relevant evidence if the general purposes of the rules of evidence and the interests of justice will best be served by its admission.

(b1) Upon receipt of a notice of hearing for judicial review, the director who identified the individual as a responsible individual shall review all records, reports, and other information gathered during the investigative assessment response. If after a review, the director determines that there is not sufficient evidence to support a determination that the individual abused or seriously neglected the juvenile and is a responsible individual, the director shall prepare a written statement of the director's determination and either deliver the statement personally to the individual seeking judicial review or send the statement by first-class mail. The director shall also give written notice of the director's determination to the clerk to be placed in the court file, and the judicial review hearing shall be cancelled with notice of the cancellation given by the clerk to the petitioner.

(c) At the hearing, the following rights of the parties shall be preserved:

- (1) The right to present sworn evidence, law, or rules that bear upon the case.
- (2) The right to represent themselves or obtain the services of an attorney at their own expense.
- (3) The right to subpoena witnesses, cross-examine witnesses of the other party, and make a closing argument summarizing the party's view of the case and the law.

(d) Within 30 days after completion of the hearing, the court shall enter an order containing findings of fact and conclusions of law. The clerk shall serve a copy of the order on each party or the party's attorney of record. If the court concludes that the director has not established by a preponderance of the evidence abuse or serious neglect or the identification of

the responsible individual, the court shall reverse the director's determination and order the director not to place the individual's name on the responsible individuals list. If the court concludes that the director has established by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual, the court shall order the director to place the individual's name on the responsible individuals list, consistent with the court's order.

(e) Notwithstanding any time limitations contained in this section or the provisions of G.S. 7B-324(a)(4), upon the filing of a petition for judicial review by an individual identified by a director as a responsible individual, the district court of the county in which the abuse or neglect report arose may review a director's determination of abuse or serious neglect at any time if the review serves the interests of justice or for extraordinary circumstances. If the district court undertakes such a review, a hearing shall be held pursuant to this section at which the director shall have the burden of establishing by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. If the court concludes that the director has not established by a preponderance of the evidence abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's determination and order the director to expunge the individual's name from the responsible individuals list.

(f) A party may appeal the district court's decision under G.S. 7A-27(b)(2). (2005-399, s. 3; 2010-90, s. 7; 2013-129, s. 5; 2015-247, s. 7.)

§ 7B-324. Persons ineligible to petition for judicial review.

(a) An individual who has been identified by a director as a responsible individual may not petition for judicial review if any of the following apply:

- (1) The individual is criminally convicted as a result of the same incident. The district attorney shall inform the director of the result of the criminal proceeding.
- (2) Repealed by Session Laws 2013-129, s. 6, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (3) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.
- (4) After proper notice, the individual fails to file a petition for judicial review with the district court in a timely manner.
- (5) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.

(b) If an individual seeking judicial review is named as a respondent in a juvenile court case or a defendant in a criminal court case resulting from the same incident, the district court judge may stay the judicial review proceeding. (2005-399, s. 3; 2010-90, s. 8; 2013-129, s. 6.)

§§ 7B-325 through 7B-399: Reserved for future codification purposes.

Article 4. Venue; Petitions.

§ 7B-400. Venue.

(a) A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. Notwithstanding G.S. 153A-257, the absence of a juvenile from the juvenile's home pursuant to a protection plan

during an assessment or the provision of case management services by a department of social services shall not change the original venue if it subsequently becomes necessary to file a juvenile petition.

(b) When the director in one county conducts an assessment pursuant to G.S. 7B-302 in another county because a conflict of interest exists, the director in the county conducting the assessment may file a resulting petition in either county.

(c) For good cause, the court may grant motion for change of venue before adjudication. A pre-adjudication change of venue shall not affect the identity of the petitioner.

(d) Any change of venue after adjudication shall be pursuant to G.S. 7B-900.1. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2009-311, s. 2; 2013-129, s. 7.)

§ 7B-401. Pleading and process.

(a) The pleading in an abuse, neglect, or dependency action is the petition. The process in an abuse, neglect, or dependency action is the summons.

(b) If the court has retained jurisdiction over a juvenile whose custody was granted to a parent and there are no periodic judicial reviews of the placement, the provisions of Article 8 of this subchapter shall apply to any subsequent report of abuse, neglect, or dependency determined by the director of social services to require court action pursuant to G.S. 7B-302. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2013-129, s. 8.)

§ 7B-401.1. Parties.

(a) **Petitioner.** – Only a county director of social services or the director's authorized representative may file a petition alleging that a juvenile is abused, neglected, or dependent. The petitioner shall remain a party until the court terminates its jurisdiction in the case.

(b) **Parents.** – The juvenile's parent shall be a party unless one of the following applies:

(1) The parent's rights have been terminated.

(2) The parent has relinquished the juvenile for adoption, unless the court orders that the parent be made a party.

(3) The parent has been convicted under G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 for an offense that resulted in the conception of the juvenile.

(c) **Guardian.** – A person who is the child's court-appointed guardian of the person or general guardian when the petition is filed shall be a party. A person appointed as the child's guardian pursuant to G.S. 7B-600 shall automatically become a party but only if the court has found that the guardianship is the permanent plan for the juvenile.

(d) **Custodian.** – A person who is the juvenile's custodian, as defined in G.S. 7B-101(8), when the petition is filed shall be a party. A person to whom custody of the juvenile is awarded in the juvenile proceeding shall automatically become a party but only if the court has found that the custody arrangement is the permanent plan for the juvenile.

(e) **Caretaker.** – A caretaker shall be a party only if (i) the petition includes allegations relating to the caretaker, (ii) the caretaker has assumed the status and obligation of a parent, or (iii) the court orders that the caretaker be made a party.

(e1) **Foster Parent.** – A foster parent as defined in G.S. 131D-10.2(9a) providing foster care for the juvenile is not a party to the case and may be allowed to intervene only if the foster parent has authority to file a petition to terminate the parental rights of the juvenile's parents pursuant to G.S. 7B-1103.

(f) **The Juvenile.** – The juvenile shall be a party.

(g) **Removal of a Party.** – If a guardian, custodian, or caretaker is a party, the court may

discharge that person from the proceeding, making the person no longer a party, if the court finds that the person does not have legal rights that may be affected by the action and that the person's continuation as a party is not necessary to meet the juvenile's needs.

(h) **Intervention.** – Except as provided in G.S. 7B-1103(b) and subsection (e1) of this section, the court shall not allow intervention by a person who is not the juvenile's parent, guardian, or custodian, but may allow intervention by another county department of social services that has an interest in the proceeding. This section shall not prohibit the court from consolidating a juvenile proceeding with a civil action or claim for custody pursuant to G.S. 7B-200.

(i) **(Effective January 1, 2017) Young Adult in Foster Care.** – In proceedings held pursuant to G.S. 7B-910.1, the young adult in foster care and the director of the department of social services are parties. (2013-129, s. 9; 2015-136, s. 2; 2015-181, s. 22; 2015-241, s. 12C.9(h); 2015-264, s. 33(a).)

§ 7B-402. Petition.

(a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of each party as determined by G.S. 7B-401.1, and allegations of facts sufficient to invoke jurisdiction over the juvenile. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

(b) The petition, or an affidavit attached to the petition, shall contain the information required by G.S. 50A-209.

(c) Sufficient copies of the petition shall be prepared so that copies will be available for each party named in the petition, except the juvenile, and for the juvenile's guardian ad litem, the social worker, and any person determined by the court to be a necessary party.

(d) If the petition is filed in a county other than the county of the juvenile's residence, the petitioner shall provide a copy of the petition and any notices of hearing to the director of the department of social services in the county of the juvenile's residence. (1979, c. 815, s. 1; 1981, c. 469, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2004-128, s. 11; 2005-320, s. 3; 2009-311, s. 3; 2010-90, s. 9; 2013-129, s. 10.)

§ 7B-403. Receipt of reports; filing of petition.

(a) All reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be drawn by the director, verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing.

(b) A decision of the director of social services not to file a report as a petition shall be reviewed by the prosecutor if review is requested pursuant to G.S. 7B-305. (1979, c. 815, s. 1; 1981, c. 469, ss. 10, 11; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-404. Immediate need for petition when clerk's office is closed.

(a) When the office of the clerk is closed, a magistrate may be authorized by the chief district court judge to draw, verify, and issue petitions as follows:

- (1) When the director of the department of social services requests a petition alleging a juvenile to be abused, neglected, or dependent, or
- (2) When the director of the department of social services requests a petition

alleging the obstruction of or interference with an assessment required by G.S. 7B-302.

(b) The authority of the magistrate under this section is limited to emergency situations when a petition is required in order to obtain a nonsecure custody order or an order under G.S. 7B-303. Any petition issued under this section shall be delivered to the clerk's office for processing as soon as that office is open for business. (1979, c. 815, s. 1; 1987, c. 409, s. 3; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 10.)

§ 7B-405. Commencement of action.

An action is commenced by the filing of a petition in the clerk's office when that office is open or by the issuance of a juvenile petition by a magistrate when the clerk's office is closed, which issuance shall constitute filing. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-406. Issuance of summons.

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to each party named in the petition, except the juvenile, requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include each of the following:

- (1) Notice of the nature of the proceeding.
- (2) Notice of any right to counsel and information about how a parent may seek the appointment of counsel prior to a hearing if provisional counsel is not identified.
- (2a) Repealed by Session Laws 2013-129, s. 11, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State.
- (4) Notice that the dispositional order or a subsequent order:
 - a. May remove the juvenile from the custody of the parent, guardian, or custodian.
 - b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
 - c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
 - d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
 - e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent that upon service, jurisdiction over that person is obtained and that failure to comply with any order of the court pursuant to G.S. 7B-904 may cause the court to issue a show cause order for contempt.

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 2; 1995, c. 328, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-183, s. 1; 2001-208, s. 1; 2001-487, s. 101; 2004-128, s. 12; 2010-90, s. 10; 2013-129, s. 11.)

§ 7B-407. Service of summons.

The summons shall be served under G.S. 1A-1, Rule 4(j) upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If service by publication under G.S. 1A-1, Rule 4(j1) is required, the cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-304, s. 1; 2013-129, s. 12.)

§ 7B-408. Copy of petition and notices to guardian ad litem.

Immediately after a petition has been filed alleging that a juvenile is abused or neglected, the clerk shall provide a copy of the petition and any notices of hearings to the local guardian ad litem office. (2003-140, s. 6)

§§ 7B-409 through 7B-413: Reserved for future codification purposes.

Article 5.

Temporary Custody; Nonsecure Custody; Custody Hearings.

§ 7B-500. Taking a juvenile into temporary custody; civil and criminal immunity.

(a) Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a department of social services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order. If a department of social services worker takes a juvenile into temporary custody under this section, the worker may arrange for the placement, care, supervision, and transportation of the juvenile.

(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

- (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A law enforcement officer who is on duty or at a police station or sheriff's department.
- (3) A social services worker who is on duty or at a local department of social services.
- (4) A certified emergency medical service worker who is on duty or at a fire or

emergency medical services station.

(c) An individual who takes an infant into temporary custody under subsection (b) of this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. Any individual who takes an infant into temporary custody under subsection (b) of this section may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(d) Any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(e) An individual described in subsection (b) or (d) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of subsection (c) or (d) of this section as long as that individual was acting in good faith. The immunity established by this subsection does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. (1979, c. 815, s. 1; 1985, c. 408, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 1; 1994, Ex. Sess., c. 27, s. 2; 1995, c. 391, s. 1; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-456, s. 60; 2001-291, s. 2.)

§ 7B-501. Duties of person taking juvenile into temporary custody.

(a) A person who takes a juvenile into custody without a court order under G.S. 7B-500 shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, custodian, or caretaker that the juvenile has been taken into temporary custody and advise the parent, guardian, custodian, or caretaker of the right to be present with the juvenile until a determination is made as to the need for nonsecure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, custodian, or caretaker if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- (3) The person having temporary custody shall communicate with the director of the department of social services who shall consider prehearing diversion. If the decision is made to file a petition, the director shall contact the judge or person delegated authority pursuant to G.S. 7B-502 for a determination of the need for continued custody.

(b) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless:

- (1) A petition or motion for review has been filed by the director of the

- department of social services, and
- (2) An order for nonsecure custody has been entered by the court. (1979, c. 815, s. 1; 1981, c. 335, ss. 1, 2; 1994, Ex. Sess., c. 17, s. 1; c. 27, s. 3; 1995, c. 391, s. 2; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-502. Authority to issue custody orders; delegation.

(a) In the case of any juvenile alleged to be within the jurisdiction of the court, the court may order that the juvenile be placed in nonsecure custody pursuant to criteria set out in G.S. 7B-503 when custody of the juvenile is necessary. The order for nonsecure custody may be entered ex parte. Unless the petition is being filed pursuant to G.S. 7B-404, telephonic communication that the department will be seeking nonsecure custody shall be given to counsel, or if unavailable, to a partner or employee at the attorney's office when any of the following occur:

- (1) The department has received written notification that a respondent has counsel for the juvenile matter.
- (2) The respondent is represented by counsel in a juvenile proceeding within the same county involving another juvenile of the respondent.

Notice is not required to provisional counsel appointed pursuant to G.S. 7B-602.

(b) Any district court judge shall have the authority to issue nonsecure custody orders pursuant to G.S. 7B-503. The chief district court judge may delegate the court's authority to persons other than district court judges by administrative order which shall be filed in the office of the clerk of superior court. The administrative order shall specify which persons shall be contacted for approval of a nonsecure custody order pursuant to G.S. 7B-503. (1979, c. 815, s. 1; 1981, c. 425; 1983, c. 590, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2015-136, s. 3.)

§ 7B-503. Criteria for nonsecure custody.

(a) When a request is made for nonsecure custody, the court shall first consider release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible adult. An order for nonsecure custody shall be made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and any of the following apply:

- (1) The juvenile has been abandoned.
- (2) The juvenile has suffered physical injury or sexual abuse.
- (3) The juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection.
- (4) The juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment.
- (5) The parent, guardian, custodian, or caretaker consents to the nonsecure custody order.
- (6) The juvenile is a runaway and consents to nonsecure custody.

A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure custody only when there is a reasonable factual basis to believe that there are no other reasonable means available to protect the juvenile. In no case shall a juvenile alleged to be abused, neglected, or

dependent be placed in secure custody.

(b) Whenever a petition is filed under G.S. 7B-302(d1), the court shall rule on the petition prior to returning the child to a home where the alleged abuser or abusers are or have been present. If the court finds that the alleged abuser or abusers have a history of violent behavior against people, the court shall order the alleged abuser or abusers to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist. The court may order the alleged abuser or abusers to pay the cost of any mental health evaluation required under this section. (1979, c. 815, s. 1; 1981, c. 426, ss. 1-4; c. 526; 1983, c. 590, ss. 2-6; 1987, c. 101; 1987 (Reg. Sess., 1988), c. 1090, s. 3; 1989, c. 550; 1998-202, s. 6; 1999-318, s. 4; 1999-456, s. 60; 2011-295, s. 2.)

§ 7B-504. Order for nonsecure custody.

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to take physical custody of the juvenile and to make due return on the order. A copy of the order shall be given to the juvenile's parent, guardian, custodian, or caretaker by the official executing the order.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms. If the court finds on the basis of the petition and request for nonsecure custody or the testimony of the petitioner that a less intrusive remedy is not available, the court may authorize a law enforcement officer to enter private property to take physical custody of the juvenile. If required by exigent circumstances of the case, the court may authorize a law enforcement officer to make a forcible entry at any hour. The officer is not required to inquire into the regularity or continued validity of the order and shall not incur criminal or civil liability for its due service. (1979, c. 815, s. 1; 1989, c. 124; 1998-202, s. 6; 1999-456, s. 60; 2015-43, s. 1.)

§ 7B-505. Placement while in nonsecure custody.

(a) A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure custody with the department of social services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care; or
- (2) A facility operated by the department of social services; or
- (3) Any other home or facility, including a relative's home approved by the court and designated in the order.

(b) The court shall order the department of social services to make diligent efforts to notify relatives and any custodial parents of the juvenile's siblings that the juvenile is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds such notification would be contrary to the best interests of the juvenile. The court shall order the department to make diligent efforts to notify relatives and other persons with legal custody of a sibling of the juvenile that the juvenile is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds the notification would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with

the relative would be contrary to the best interests of the juvenile.

(c) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin or other persons with legal custody of a sibling of the juvenile are willing and able to provide proper care and supervision of the juvenile in a safe home. The court may order the department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's best interests.

(d) In placing a juvenile in nonsecure custody under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children, Article 38 of this Chapter. (1979, c. 815, s. 1; 1983, c. 639, ss. 1, 2; 1997-390, s. 4; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1998-229, ss. 3, 20; 1999-456, s. 60; 2002-164, s. 4.7; 2013-129, s. 13; 2015-135, s. 2.2; 2015-136, s. 4.)

§ 7B-505.1. Juvenile placed in nonsecure custody of a department of social services.

(a) Unless the court orders otherwise, when a juvenile is placed in the nonsecure custody of a county department of social services, the director may arrange for, provide, or consent to any of the following:

- (1) Routine medical and dental care or treatment.
- (2) Emergency medical, surgical, psychiatric, psychological, or mental health care or treatment.
- (3) Testing and evaluation in exigent circumstances.

(b) When placing a juvenile in nonsecure custody of a county department of social services pursuant to G.S. 7B-502, the court may authorize the director to consent to a Child Medical Evaluation upon written findings that demonstrate the director's compelling interest in having the juvenile evaluated prior to the hearing required by G.S. 7B-506.

(c) The director shall obtain authorization from the juvenile's parent, guardian, or custodian to consent to all care or treatment not covered by subsection (a) or (b) of this section, except that the court may authorize the director to provide consent after a hearing at which the court finds by clear and convincing evidence that the care, treatment, or evaluation requested is in the juvenile's best interest. Care and treatment covered by this subsection includes:

- (1) Prescriptions for psychotropic medications.
- (2) Participation in clinical trials.
- (3) Immunizations when it is known that the parent has a bona fide religious objection to the standard schedule of immunizations.
- (4) Child Medical Evaluations not governed by subsection (b) of this section, comprehensive clinical assessments, or other mental health evaluations.
- (5) Surgical, medical, or dental procedures or tests that require informed consent.
- (6) Psychiatric, psychological, or mental health care or treatment that requires informed consent.

(d) For any care or treatment provided, the director shall make reasonable efforts to promptly notify the parent, guardian, or custodian that care or treatment will be or has been

provided and give the parent or guardian frequent status reports on the juvenile's treatment and the care provided. Upon request of the juvenile's parent, guardian, or custodian, the director shall make available to the parent, guardian, or custodian any results or records of the aforementioned evaluations, except when prohibited by G.S. 122C-53(d). The results of a Child Medical Evaluation shall only be disclosed according to the provisions of G.S. 7B-700.

(e) Except as prohibited by federal law, the department may disclose confidential information deemed necessary for the juvenile's assessment and treatment to a health care provider serving the juvenile.

(f) Unless the court has ordered otherwise, except as prohibited by federal law, a health care provider shall disclose confidential information about a juvenile to a director of a county department of social services with custody of the juvenile and a parent, guardian, or custodian. (2015-136, s. 5.)

§ 7B-506. Hearing to determine need for continued nonsecure custody.

(a) No juvenile shall be held under a nonsecure custody order for more than seven calendar days without a hearing on the merits or a hearing to determine the need for continued custody. A hearing on nonsecure custody conducted under this subsection may be continued for up to 10 business days with the consent of the juvenile's parent, guardian, custodian, or caretaker and, if appointed, the juvenile's guardian ad litem. In addition, the court may require the consent of additional parties or may schedule the hearing on custody despite a party's consent to a continuance. In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7B-502, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if such session precedes the expiration of the applicable time period set forth in this subsection: Provided, that if such session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

(b) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's parent, guardian, custodian, or caretaker the right to introduce evidence, to be heard in the person's own behalf, and to examine witnesses. The petitioner shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall not be bound by the usual rules of evidence at such hearings.

(c) The court shall be bound by criteria set forth in G.S. 7B-503 in determining whether continued custody is warranted.

(c1) In determining whether continued custody is warranted, the court shall consider the opinion of the mental health professional who performed an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual.

(d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and should continue in custody, the court shall issue an order to that effect. The order shall be in writing with appropriate findings of fact and signed and entered within 30 days of the completion of the hearing. The findings of fact shall include the evidence relied upon in reaching the decision and purposes which continued custody is to achieve.

(e) If the court orders at the hearing required in subsection (a) of this section that the juvenile remain in custody, a subsequent hearing on continued custody shall be held within seven business days of that hearing, excluding Saturdays, Sundays, and legal holidays when the courthouse is closed for transactions, and pending a hearing on the merits, hearings thereafter

shall be held at intervals of no more than 30 calendar days.

(f) Hearings conducted under subsection (e) of this section may be waived only with the consent of the juvenile's parent, guardian, custodian, or caretaker, and, if appointed, the juvenile's guardian ad litem.

The court may require the consent of additional parties or schedule a hearing despite a party's consent to waiver.

(g) In addition to the hearings required under this section, any party may schedule a hearing on the issue of placement.

(h) At each hearing to determine the need for continued custody, the court shall determine the following:

- (1) Inquire as to the identity and location of any missing parent and whether paternity is at issue. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent, as well as efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts aimed at determining the identity and location of any missing parent, as well as specific efforts aimed at establishing paternity.
- (2) Inquire about efforts made to identify and notify relatives as potential resources for placement or support and as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.
- (2a) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin or other persons with legal custody of a sibling of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. The court may order the department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin or other persons with legal custody of a sibling of the juvenile if the court finds the placement is in the juvenile's best interests.
- (3) Inquire as to whether there are other juveniles remaining in the home from which the juvenile was removed and, if there are, inquire as to the specific findings of the assessment conducted under G.S. 7B-302 and any actions taken or services provided by the director for the protection of the other juveniles. (1979, c. 815, s. 1; 1981, c. 469, s. 13; 1987 (Reg. Sess., 1988), c. 1090, s. 4; 1994, Ex. Sess., c. 27, s. 1; 1997-390, ss. 5, 6; 1998-229, s. 4; 1998-202, s. 6; 1998-229, ss. 4.1, 21; 1999-318, s. 5; 1999-456, s. 60;

2001-208, ss. 16, 24; 2001-487, s. 101; 2003-337, s. 9; 2005-55, s. 11; 2007-276, s. 1; 2013-129, s. 14; 2015-136, s. 6.)

§ 7B-507. Juvenile placed in nonsecure custody of a department of social services.

(a) An order placing or continuing the placement of a juvenile in the nonsecure custody of a county department of social services:

- (1) Shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's health and safety.
- (2) Shall contain specific findings as to whether a county department of social services has made reasonable efforts to prevent the need for placement of the juvenile. In determining whether efforts to prevent the placement of the juvenile were reasonable, the juvenile's health and safety shall be the paramount concern. The court may find that efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile. A finding that reasonable efforts were not made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court finds that placement is necessary for the protection of the juvenile.
- (3) Repealed by Session Laws 2015-136, s. 7, effective October 1, 2015, and applicable to actions filed or pending on or after that date.
- (4) Shall specify that the juvenile's placement and care are the responsibility of the county department of social services and that the department is to provide or arrange for the foster care or other placement of the juvenile, unless after considering the department's recommendations, the court orders a specific placement the court finds to be in the juvenile's best interests.
- (5) May order services or other efforts aimed at returning the juvenile to a safe home.

(b) through (d) Repealed by Session Laws 2015-136, s. 7, effective October 1, 2015, and applicable to actions filed or pending on or after that date. (1998-229, ss. 4.1, 21.1; 1999-456, s. 60; 2001-487, s. 2; 2005-398, s. 1; 2011-295, s. 3; 2013-129, s. 15; 2013-378, s. 1; 2015-136, s. 7.)

§ 7B-508. Telephonic communication authorized.

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-501, 7B-503, and 7B-504 may be made by telephone when other means of communication are impractical. All written orders pursuant to telephonic communication shall bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization. (1979, c. 815, s. 1; 1981, c. 469, s. 13; 1987 (Reg. Sess., 1988), c. 1090, s. 4; 1994, Ex. Sess., c. 27, s. 1; 1997-390, ss. 5, 6; 1998-202, s. 6; 1998-229, s. 4; 1999-456, s. 60.)

Article 6.
Basic Rights.

§ 7B-600. Appointment of guardian.

(a) In any case when no parent appears in a hearing with the juvenile or when the court

finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the Armed Forces of the United States, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is the permanent plan for the juvenile and appoints a guardian under this section, the guardian becomes a party to the proceeding. The court may terminate the guardianship only if (i) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, (ii) the guardian is unfit, (iii) the guardian has neglected a guardian's duties, or (iv) the guardian is unwilling or unable to continue assuming a guardian's duties.

(b1) If a party files a motion under G.S. 7B-906.1 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

- (1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.
- (2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.
- (3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.
- (4) Take any other action necessary in order to make a determination in a particular case.

(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile. (1979, c. 815, s. 1; 1997-390, s. 7; 1998-202, s. 6; 1999-456, s. 60; 2000-124, s. 1; 2003-140, s. 9(a); 2011-183, s. 3; 2011-295, s. 4; 2013-129, s. 16.)

§ 7B-601. Appointment and duties of guardian ad litem.

(a) When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the court may appoint a guardian ad litem to represent the juvenile. The juvenile is a party in all actions under this Subchapter. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate when the permanent plan has been achieved for the juvenile and approved by the court. The court may reappoint the guardian ad litem pursuant to a showing of

good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the juvenile's legal rights throughout the proceeding. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court.

(b) The court may authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

(c) The guardian ad litem has the authority to obtain any information or reports, whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law. (1979, c. 815, s. 1; 1981, c. 528; 1983, c. 761, s. 159; 1987 (Reg. Sess., 1988), c. 1090, s. 5; 1993, c. 537, s. 1; 1995, c. 324, s. 21.13; 1998-202, s. 6; 1999-432, s. 1; 1999-456, s. 60.)

§ 7B-602. Parent's right to counsel; guardian ad litem.

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons or attached notice. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent.

The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. The court's examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent who is under the age of 18 years and who is not married or otherwise emancipated. The appointment of a guardian ad litem under this subsection shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event that the minor parent is the subject of a

separate juvenile petition.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

(e) Repealed by Session Laws 2013-129, s. 17, effective October 1, 2013, and applicable to actions filed or pending on or after that date. (1979, c. 815, s. 1; 1981, c. 469, s. 14; 1998-202, s. 6; 1999-456, s. 60; 2000-144, s. 16; 2001-208, s. 2; 2001-487, s. 101; 2005-398, s. 2; 2011-326, s. 12(a); 2013-129, s. 17.)

§ 7B-603. Payment of court-appointed attorney or guardian ad litem.

(a) An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 shall be paid a reasonable fee fixed by the court or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts.

(a1) The court may require payment of the fee for an attorney or guardian ad litem appointed pursuant to G.S. 7B-601 from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. If the party is ordered to reimburse the State for attorney or guardian ad litem fees and fails to comply with the order at the time of disposition, the court shall file a judgment against the party for the amount due the State.

(b) An attorney or guardian ad litem appointed pursuant to G.S. 7B-602 or pursuant to any other provision of the Juvenile Code for which the Office of Indigent Defense Services is responsible for providing counsel shall be paid a reasonable fee in accordance with rules adopted by the Office of Indigent Defense Services.

(b1) The court may require payment of the fee for an attorney appointed pursuant to G.S. 7B-602 or G.S. 7B-1101 from the respondent. In no event shall the respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have been terminated. At the dispositional hearing or other appropriate hearing, the court shall make a determination whether the respondent should be held responsible for reimbursing the State for the respondent's attorneys' fees. This determination shall include the respondent's financial ability to pay.

If the court determines that the respondent is responsible for reimbursing the State for the respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the order at the time of disposition, the court shall file a judgment against the respondent for the amount due the State.

(c) Repealed by Session Laws 2005-254, s. 2, effective October 1, 2005, and applicable to the appointment of counsel on or after that date. (1979, c. 815, s. 1; 1983, c. 726, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 1090, s. 6; 1991, c. 575, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-144, s. 17; 2005-254, s. 2., 2014-115, s. 21.)

Article 7.
Discovery.

§ 7B-700. Sharing of information; discovery.

(a) **Sharing of Information.** – A department of social services is authorized to share with any other party information relevant to the subject matter of an action pending under this Subchapter. However, this subsection does not authorize the disclosure of the identity of the reporter or any uniquely identifying information that would lead to the discovery of the reporter's identity in accordance with G.S. 7B-302 or the identity of any other person where the agency making the information available determines that the disclosure would be likely to endanger the life or safety of the person.

(b) **Local Rules.** – The chief district court judge may adopt local rules or enter an administrative order addressing the sharing of information among parties and the use of discovery.

(c) **Discovery.** – Any party may file a motion for discovery. The motion shall contain a specific description of the information sought and a statement that the requesting party has made a reasonable effort to obtain the information pursuant to subsections (a) and (b) of this section or that the information cannot be obtained pursuant to subsections (a) and (b) of this section. The motion shall be served upon all parties pursuant to G.S. 1A-1, Rule 5. The motion shall be heard and ruled upon within 10 business days of the filing of the motion. The court may grant, restrict, defer, or deny the relief requested. Any order shall avoid unnecessary delay of the hearing, establish expedited deadlines for completion, and conform to G.S. 7B-803.

(d) **Protective Order.** – Any party served with a motion for discovery may request that the discovery be denied, restricted, or deferred and shall submit, for in camera inspection, the document, information, or materials the party seeks to protect. If the court enters any order granting relief, copies of the documents, information, or materials submitted in camera shall be preserved for appellate review in the event of an appeal.

(e) **Redisclosure.** – Information obtained through discovery or sharing of information under this section may not be redisclosed if the redisclosure is prohibited by State or federal law.

(f) **Guardian Ad Litem.** – Unless provided otherwise by local rules, information or reports obtained by the guardian ad litem pursuant to G.S. 7B-601 are not subject to disclosure pursuant to this subsection, except that reports and records shall be shared with all parties before submission to the court. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2009-311, s. 4.)

Article 8.
Hearing Procedures.

§ 7B-800. Amendment of petition.

The court, in its discretion, may permit a petition to be amended. The court shall direct the manner in which an amended petition shall be served and the time allowed for a party to prepare after the petition has been amended. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2010-90, s. 11.)

§ 7B-800.1. Pre-adjudication hearing.

(a) Prior to the adjudicatory hearing, the court shall consider the following:

(1) Retention or release of provisional counsel.

- (2) Identification of the parties to the proceeding.
 - (3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
 - (4) Whether relatives, parents, or other persons with legal custody of a sibling of the juvenile have been identified and notified as potential resources for placement or support.
 - (5) Whether all summons, service of process, and notice requirements have been met.
 - (5a) Whether the petition has been properly verified and invokes jurisdiction.
 - (6) Any pretrial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance of the adjudicatory hearing in accordance with G.S. 7B-803.
 - (7) Any other issue that can be properly addressed as a preliminary matter.
- (b) The pre-adjudication hearing may be combined with a hearing on the need for nonsecure custody or any pretrial hearing or conducted in accordance with local rules.
- (c) The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G.S. 7B-801. (2013-129, s. 18; 2014-16, s. 1; 2015-135, s. 2.3; 2015-136, s. 8.)

§ 7B-801. Hearing.

- (a) At any hearing authorized or required under this Subchapter, the court in its discretion shall determine whether the hearing or any part of the hearing shall be closed to the public. In determining whether to close the hearing or any part of the hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:
- (1) The nature of the allegations against the juvenile's parent, guardian, custodian or caretaker;
 - (2) The age and maturity of the juvenile;
 - (3) The benefit to the juvenile of confidentiality;
 - (4) The benefit to the juvenile of an open hearing; and
 - (5) The extent to which the confidentiality afforded the juvenile's record pursuant to G.S. 132-1.4(l) and G.S. 7B-2901 will be compromised by an open hearing.
- (b) No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.
- (b1) Nothing in this Subchapter precludes the court in an abuse, neglect, or dependency proceeding from entering a consent adjudication order, disposition order, review order, or permanency planning order when each of the following apply:
- (1) All parties are present or represented by counsel, who is present and authorized to consent.
 - (2) The juvenile is represented by counsel.
 - (3) The court makes sufficient findings of fact.
- (c) The adjudicatory hearing shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 60 days from the filing of the petition unless the judge pursuant to G.S. 7B-803 orders that it be held at a later time. (1979, c. 815, s. 1; 1998-202, s. 6; 1998-229, ss. 5, 22; 1999-456, s. 60; 2011-295, s. 5.)

§ 7B-802. Conduct of hearing.

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-803. Continuances.

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting a continuance. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2013-129, s. 19.)

§ 7B-804. Rules of evidence.

Where the juvenile is alleged to be abused, neglected, or dependent, the rules of evidence in civil cases shall apply. (1979, c. 815, s. 1; 1981, c. 469, s. 17; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-805. Quantum of proof in adjudicatory hearing.

The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2010-90, s. 12; 2013-129, s. 20.)

§ 7B-806. Record of proceedings.

All adjudicatory and dispositional hearings shall be recorded by stenographic notes or by electronic or mechanical means. Records shall be reduced to a written transcript only when timely notice of appeal has been given. The court may order that other hearings be recorded. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-807. Adjudication.

(a) If the court finds from the evidence, including stipulations by a party, that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. A record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

(a1) Repealed by Session Laws 2013-129, s. 21, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a

subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2001-208, s. 17; 2001-487, s. 101; 2005-398, s. 3; 2010-90, s. 13; 2011-295, s. 6; 2013-129, s. 21.)

§ 7B-808. Predisposition report.

(a) The court shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court may proceed with the dispositional hearing without receiving a predisposition report if the court makes a written finding that a report is not necessary.

(b) The director of the department of social services shall prepare the predisposition report for the court containing the results of any mental health evaluation under G.S. 7B-503, a placement plan, and a treatment plan the director deems appropriate to meet the juvenile's needs.

(c) The chief district court judge may adopt local rules or make an administrative order addressing the sharing of the reports among parties, including an order that prohibits disclosure of the report to the juvenile if the court determines that disclosure would not be in the best interest of the juvenile. Such local rules or administrative order may not:

- (1) Prohibit a party entitled by law to receive confidential information from receiving that information.
- (2) Allow disclosure of any confidential source protected by statute. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-140, s. 2; 2004-203, s. 17.)

Article 9.
Dispositions.

§ 7B-900. Purpose.

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and the juvenile's family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus, the court should arrange for appropriate community-level services to be provided to the juvenile and the juvenile's family in order to strengthen the home situation. (1979, c. 815, s. 1; 1995 (Reg. Sess., 1996), c. 609, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-900.1. Post adjudication venue.

(a) At any time after adjudication, the court on its own motion or motion of any party may transfer venue to a different county, regardless of whether the action could have been commenced in that county, if the court finds that the forum is inconvenient, that transfer of the action to the other county is in the best interest of the juvenile, and that the rights of the parties are not prejudiced by the change of venue.

(b) Before ordering that a case be transferred to another county, the court shall find that the director of the department of social services in the county in which the action is pending and

the director in the county to which transfer is contemplated have communicated about the case and that:

- (1) The two directors are in agreement with respect to each county's responsibility for providing financial support for the juvenile and services for the juvenile and the juvenile's family; or
- (2) The Director of the Division of Social Services or the Director's designee has made that determination pursuant to G.S. 153A-257(d).

(c) When the court transfers a case to a different county, the court shall join or substitute as a party to the action the director of the department of social services in the county to which the case is being transferred and, if the juvenile is in the custody of the department of social services in the county in which the action is pending, shall transfer custody to the department of social services in the county to which the case is being transferred. The director of the department of social services in the county to which the case is being transferred must be given notice and an opportunity to be heard before the court enters an order pursuant to this subsection. However, the director may waive the right to notice and a hearing.

(d) Before ordering that a case be transferred to a different district, the court shall communicate with the chief district court judge or a judge presiding in juvenile court in the district to which the transfer is contemplated explaining the reasons for the proposed transfer. If the judge in the district to which the transfer is proposed makes a timely objection to the transfer, either verbally or in writing, the court shall order the transfer only after making detailed findings of fact that support a conclusion that the juvenile's best interests require that the case be transferred.

(e) Before ordering that a case be transferred to another county, the court shall consider relevant factors, which may include:

- (1) The current residences of the juvenile and the parent, guardian, or custodian and the extent to which those residences have been and are likely to be stable.
- (2) The reunification plan or other permanent plan for the juvenile and the likely effect of a change in venue on efforts to achieve permanence for the juvenile expeditiously.
- (3) The nature and location of services and service providers necessary to achieve the reunification plan or other permanent plan for the juvenile.
- (4) The impact upon the juvenile of the potential disruption of an existing therapeutic relationship.
- (5) The nature and location of witnesses and evidence likely to be required in future hearings.
- (6) The degree to which the transfer would cause inconvenience to one or more parties.
- (7) Any agreement of the parties as to which forum is most convenient.
- (8) The familiarity of the departments of social services, the courts, and the local offices of the guardian ad litem with the juvenile and the juvenile's family.
- (9) Any other factor the court considers relevant.

(f) The order transferring venue shall be in writing, signed, and entered no later than 30 days from completion of the hearing. The order shall identify the next court action and specify the date within which the next hearing shall be held. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any

needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(g) The clerk shall transmit to the court in the county to which the case is being transferred a copy of the complete record of the case within three business days after entry of the order transferring venue.

Upon receiving a case that has been transferred from another county, the clerk shall promptly satisfy the following:

- (1) Assign an appropriate file number to the case.
- (2) Ensure that any necessary appointments of new attorneys or guardians ad litem are made.
- (3) Calendar the next court action as set forth in the order transferring venue and give appropriate notice to all parties. (2009-311, s. 5.)

§ 7B-901. Initial dispositional hearing.

(a) The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have the right to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including testimony or evidence from any person who is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) At the dispositional hearing, the court shall inquire as to the identity and location of any missing parent and whether paternity is at issue. The court shall include findings of the efforts undertaken to locate the missing parent and to serve that parent and efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts in determining the identity and location of any missing parent and specific efforts in establishing paternity. The court shall also inquire about efforts made to identify and notify relatives, parents, or other persons with legal custody of a sibling of the juvenile, as potential resources for placement or support.

(c) If the disposition order places a juvenile in the custody of a county department of social services, the court shall direct that reasonable efforts for reunification as defined in G.S. 7B-101 shall not be required if the court makes written findings of fact pertaining to any of the following, unless the court concludes that there is compelling evidence warranting continued reunification efforts:

- (1) A court of competent jurisdiction has determined that aggravated circumstances exist because the parent has committed or encouraged the commission of, or allowed the continuation of, any of the following upon the juvenile:
 - a. Sexual abuse.
 - b. Chronic physical or emotional abuse.
 - c. Torture.
 - d. Abandonment.
 - e. Chronic or toxic exposure to alcohol or controlled substances that causes impairment of or addiction in the juvenile.
 - f. Any other act, practice, or conduct that increased the enormity or

added to the injurious consequences of the abuse or neglect.

- (2) A court of competent jurisdiction has terminated involuntarily the parental rights of the parent to another child of the parent.
- (3) A court of competent jurisdiction has determined that (i) the parent has committed murder or voluntary manslaughter of another child of the parent; (ii) has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; (iii) has committed a felony assault resulting in serious bodily injury to the child or another child of the parent; (iv) has committed sexual abuse against the child or another child of the parent; or (v) has been required to register as a sex offender on any government-administered registry.

(d) When the court determines that reunification efforts are not required, the court shall order a permanent plan as soon as possible, after providing each party with a reasonable opportunity to prepare and present evidence. The court shall schedule a subsequent hearing within 30 days to address the permanent plans in accordance with G.S. 7B-906.1 and G.S. 7B-906.2. (1979, c. 815, s. 1; 1981, c. 469, s. 18; 1998-202, s. 6; 1999-456, s. 60; 2003-62, s. 1; 2005-398, s. 4; 2007-276, s. 2; 2011-295, s. 7; 2013-129, s. 22; 2015-135, s. 2.4; 2015-136, s. 9; 2015-264, s. 34(a).)

§ 7B-902: Repealed by Session Laws 2011-295, s. 8, effective October 1, 2011, and applicable to actions filed on or pending on or after that date.

§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.

(a) The following alternatives for disposition shall be available to any court exercising jurisdiction, and the court may combine any of the applicable alternatives when the court finds the disposition to be in the best interests of the juvenile:

- (1) Dismiss the case or continue the case in order to allow the parent, guardian, custodian, caretaker or others to take appropriate action.
- (2) Require that the juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county or by another individual as may be available to the court, subject to conditions applicable to the parent, guardian, custodian, or caretaker as the court may specify.
- (3) Repealed by Session Laws 2015-136, s. 10, effective October 1, 2015, and applicable to actions filed or pending on or after that date.
- (4) Place the juvenile in the custody of a parent, relative, private agency offering placement services, or some other suitable person. If the court determines that the juvenile should be placed in the custody of an individual other than a parent, the court shall verify that the person receiving custody of the juvenile understands the legal significance of the placement and will have adequate resources to care appropriately for the juvenile.
- (5) Appoint a guardian of the person for the juvenile as provided in G.S. 7B-600.
- (6) Place the juvenile in the custody of the department of social services in the county of the juvenile's residence. In the case of a juvenile who has legal residence outside the State, the court may place the juvenile in the physical custody of the department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state.

(a1) In placing a juvenile in out-of-home care under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that the placement is contrary to the best interests of the juvenile. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children.

(a2) An order under this section placing or continuing the placement of the juvenile in out-of-home care shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's health and safety.

(a3) An order under this section placing the juvenile in out-of-home care shall contain specific findings as to whether the department has made reasonable efforts to prevent the need for placement of the juvenile. In determining whether efforts to prevent the placement of the juvenile were reasonable, the juvenile's health and safety shall be the paramount concern.

The court may find that efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile. A finding that reasonable efforts were not made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court finds that placement is necessary for the protection of the juvenile.

(b) When the court has found that a juvenile has suffered physical abuse and that the individual responsible for the abuse has a history of violent behavior against people, the court shall consider the opinion of the mental health professional who performed an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual.

(c) Repealed by Session Laws 2015-136, s. 10, effective October 1, 2015, and applicable to actions filed or pending on or after that date.

(d) The court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile. Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other treatment and who should pay the cost of the treatment. The county manager, or such person who shall be designated by the chairman of the county commissioners, of the juvenile's residence shall be notified of the hearing and allowed to be heard. Subject to G.S. 7B-903.1, if the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other treatment, the court shall permit the parent or other responsible persons to arrange for treatment. If the parent declines or is unable to make necessary arrangements, the court may order the needed treatment, surgery, or care and the court may order the parent to pay the cost of the care pursuant to G.S. 7B-904. If the court finds the parent is unable to pay the cost of treatment, the court shall order the county to arrange for treatment of the juvenile and to pay for the cost of the treatment. The county department of social services shall recommend the facility that will provide the juvenile with treatment.

(e) If the court determines that the juvenile may be mentally ill or developmentally disabled, the court may order the county department of social services to coordinate with the appropriate representative of the area mental health, developmental disabilities, and substance abuse services authority or other managed care organization responsible for managing public funds for mental health and developmental disabilities to develop a treatment plan for the

juvenile. The court shall not commit a juvenile directly to a State hospital or developmental center for persons with intellectual and developmental disabilities and orders purporting to commit a juvenile directly to a State hospital or developmental center for persons with intellectual and developmental disabilities shall be void and of no effect. If the court determines that institutionalization is the best service for the juvenile, admission shall be with the voluntary consent of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to admission to a mental hospital or developmental center for persons with intellectual and developmental disabilities, the signature and consent of the court may be substituted for that purpose. A State hospital or developmental center for persons with intellectual and developmental disabilities that refuses admission to a juvenile referred for admission by a court, or discharges a juvenile previously admitted on court referral prior to completion of treatment, shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness or intellectual and developmental disabilities, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question. (1979, c. 815, s. 1; 1981, c. 469, s. 19; 1985, c. 589, s. 5; c. 777, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 2; 1991, c. 636, s. 19(a); 1995 (Reg. Sess., 1996), c. 609, s. 3; 1997-516, s. 1A; 1998-202, s. 6; 1998-229, ss. 6, 23; 1999-318, s. 6; 1999-456, s. 60; 2002-164, s. 4.8; 2003-140, s. 9(b); 2015-136, s. 10.)

§ 7B-903.1. Juvenile placed in custody of a department of social services.

(a) Except as prohibited by federal law, the director of a county department of social services with custody of a juvenile shall be authorized to make decisions about matters not addressed herein that are generally made by a juvenile's custodian, including, but not limited to, educational decisions and consenting to the sharing of the juvenile's information. The court may delegate any part of this authority to the juvenile's parent, foster parent, or another individual.

(b) When a juvenile is in the custody or placement responsibility of a county department of social services, the placement provider may, in accordance with G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or county department of social services, to allow a juvenile to participate in normal childhood activities. If such authorization is not in the juvenile's best interest, the court shall set out alternative parameters for approving normal childhood activities.

(c) If a juvenile is removed from the home and placed in the custody or placement responsibility of a county department of social services, the director shall not allow unsupervised visitation with or return physical custody of the juvenile to the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home.

(d) When a county department of social services having custody or placement responsibility of a juvenile intends to change the juvenile's placement, the department shall give the guardian ad litem for the juvenile notice of its intention unless precluded by emergency circumstances from doing so. Where emergency circumstances exist, the department of social services shall notify the guardian ad litem or the attorney advocate within 72 hours of the placement change, unless local rules require notification within a shorter time period.

(e) When a juvenile is placed in the custody of a county department of social services, the provisions of G.S. 7B-505.1 apply. (2015-135, s. 2.5; 2015-136, s. 11.)

§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or dependent.

(a) If the court orders medical, surgical, psychiatric, psychological, or other treatment pursuant to G.S. 7B-903, the court may order the parent or other responsible parties to pay the cost of the treatment or care ordered.

(b) At the dispositional hearing or a subsequent hearing if the court finds that it is in the best interests of the juvenile for the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to be directly involved in the juvenile's treatment, the court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to participate in medical, psychiatric, psychological, or other treatment of the juvenile. The cost of the treatment shall be paid pursuant to G.S. 7B-903.

(c) At the dispositional hearing or a subsequent hearing the court may determine whether the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care. If the court finds that the best interests of the juvenile require the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo treatment, it may order that individual to comply with a plan of treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon that individual's compliance with the plan of treatment. The court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon compliance with a plan of treatment, the court may charge the cost of the treatment to the county of the juvenile's residence if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment ordered pursuant to this subsection, the court may order that individual to receive treatment currently available from the area mental health program that serves the parent's catchment area.

(d) At the dispositional hearing or a subsequent hearing, when legal custody of a juvenile is vested in someone other than the juvenile's parent, if the court finds that the parent is able to do so, the court may order that the parent pay a reasonable sum that will cover, in whole or in part, the support of the juvenile after the order is entered. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the court places a juvenile in the custody of a county department of social services and if the court finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the

State or federal government or any subdivision thereof.

(d1) At the dispositional hearing or a subsequent hearing, the court may order the parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S. 7B-407 to do any of the following:

- (1) Attend and participate in parental responsibility classes if those classes are available in the judicial district in which the parent, guardian, custodian, or caretaker resides.
- (2) Provide, to the extent that person is able to do so, transportation for the juvenile to keep appointments for medical, psychiatric, psychological, or other treatment ordered by the court if the juvenile remains in or is returned to the home.
- (3) Take appropriate steps to remedy conditions in the home that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, or caretaker.

(e) Upon motion of a party or upon the court's own motion, the court may issue an order directing the parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S. 7B-407 to appear and show cause why the parent, guardian, custodian, or caretaker should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this section. (1979, c. 815, s. 1; 1983, c. 837, ss. 2, 3; 1987, c. 598, s. 2; 1989, c. 218; c. 529, s. 7; 1995, c. 328, s. 2; 1995 (Reg. Sess., 1996), c. 609, s. 4; 1997-456, s. 1; 1998-202, s. 6; 1999-318, s. 7; 1999-456, s. 60; 2001-208, s. 3; 2001-487, s. 101.)

§ 7B-905. Dispositional order.

(a) The dispositional order shall be in writing, signed, and entered no later than 30 days from the completion of the hearing, and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(b) A dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker shall direct that the review hearing required by G.S. 7B-906.1 be held within 90 days from of the date of the dispositional hearing and, if practicable, shall set the date and time for the review hearing.

(c), (d) Repealed by Session Laws 2015-136, s. 12, effective October 1, 2015, and applicable to actions filed or pending on or after that date. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 10; 1991, c. 434, s. 1; 1997-390, s. 8; 1998-202, s. 6; 1998-229, s. 24; 1999-456, s. 60; 2001-208, ss. 4, 18; 2001-487, s. 101; 2005-398, s. 5; 2011-295, s. 9; 2013-129, s. 23; 2015-136, s. 12.)

§ 7B-905.1. Visitation.

(a) An order that removes custody of a juvenile from a parent, guardian, or custodian or

that continues the juvenile's placement outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile consistent with the juvenile's health and safety. The court may specify in the order conditions under which visitation may be suspended.

(b) If the juvenile is placed or continued in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved or ordered by the court. The plan shall indicate the minimum frequency and length of visits and whether the visits shall be supervised. Unless the court orders otherwise, the director shall have discretion to determine who will supervise visits when supervision is required, to determine the location of visits, and to change the day and time of visits in response to scheduling conflicts, illness of the child or party, or extraordinary circumstances. The director shall promptly communicate a limited and temporary change in the visitation schedule to the affected party. Any ongoing change in the visitation schedule shall be communicated to the party in writing and state the reason for the change.

If the director makes a good faith determination that the visitation plan is not consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subject to any motion to show cause for this suspension but shall expeditiously file a motion for review.

(c) If the juvenile is placed or continued in the custody or guardianship of a relative or other suitable person, any order providing for visitation shall specify the minimum frequency and length of the visits and whether the visits shall be supervised. The court may authorize additional visitation as agreed upon by the respondent and custodian or guardian.

(d) If the court retains jurisdiction, all parties shall be informed of the right to file a motion for review of any visitation plan entered pursuant to this section. Upon motion of any party and after proper notice and a hearing, the court may establish, modify, or enforce a visitation plan that is in the juvenile's best interest. Prior to or at the hearing, the court may order the department and guardian ad litem to investigate and make written recommendations as to appropriate visitation and give testimony concerning its recommendations. For resolution of issues related to visitation, the court may order the parents, guardian, or custodian to participate in custody mediation where there is a program established pursuant to G.S. 7A-494. In referring a case to custody mediation, the court shall specify the issue or issues for mediation, including, but not limited to, whether or not visitation shall be supervised and whether overnight visitation may occur. Custody mediation shall not permit the participants to consent to a change in custody. A copy of any agreement reached in custody mediation shall be provided to all parties and counsel and shall be approved by the court. The provisions of G.S. 50-13.1(d) through (f) apply to this section. (2013-129, s. 24.)

§ 7B-906: Repealed by Session Laws 2013-129, s. 25, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

§ 7B-906.1. Review and permanency planning hearings.

(a) In any case where custody is removed from a parent, guardian, or custodian, the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter. Within 12 months of the date of the initial order removing custody, there shall be a review hearing designated as a permanency planning hearing. Review hearings after the initial permanency planning hearing shall be designated as subsequent permanency planning hearings. The subsequent permanency planning hearings shall be held at least every six months thereafter or earlier as set by the court to review the progress

made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.

(b) The director of social services shall make a timely request to the clerk to calendar each hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to (i) the parents, (ii) the juvenile if 12 years of age or more, (iii) the guardian, (iv) the person providing care for the juvenile, (v) the custodian or agency with custody, (vi) the guardian ad litem, and (vii) any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the person providing care for the juvenile for notice under this subsection or file written documentation with the clerk that the juvenile's current care provider was sent notice of hearing. Nothing in this subsection shall be construed to make the person providing care for the juvenile a party to the proceeding solely based on receiving notice and the right to be heard.

(c) At each hearing, the court shall consider information from the parents, the juvenile, the guardian, any person providing care for the juvenile, the custodian or agency with custody, the guardian ad litem, and any other person or agency that will aid in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, or testimony or evidence from any person that is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(d) At each hearing, the court shall consider the following criteria and make written findings regarding those that are relevant:

- (1) Services which have been offered to reunite the juvenile with either parent whether or not the juvenile resided with the parent at the time of removal or the guardian or custodian from whom the child was removed.
- (2) Reports on visitation that has occurred and whether there is a need to create, modify, or enforce an appropriate visitation plan in accordance with G.S. 7B-905.1.
- (3) Whether efforts to reunite the juvenile with either parent clearly would be unsuccessful or inconsistent with the juvenile's health or safety and need for a safe, permanent home within a reasonable period of time. The court shall consider efforts to reunite regardless of whether the juvenile resided with the parent, guardian, or custodian at the time of removal. If the court determines efforts would be unsuccessful or inconsistent, the court shall consider other permanent plans of care for the juvenile pursuant to G.S. 7B-906.2.
- (4) Reports on the placements the juvenile has had, the appropriateness of the juvenile's current foster care placement, and the goals of the juvenile's foster care plan, including the role the current foster parent will play in the planning for the juvenile.
- (5) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.
- (6) When and if termination of parental rights should be considered.
- (7) Any other criteria the court deems necessary.

(e) At any permanency planning hearing where the juvenile is not placed with a parent, the court shall additionally consider the following criteria and make written findings regarding those that are relevant:

- (1) Whether it is possible for the juvenile to be placed with a parent within the next six months and, if not, why such placement is not in the juvenile's best interests.
- (2) Where the juvenile's placement with a parent is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established and, if so, the rights and responsibilities that should remain with the parents.
- (3) Where the juvenile's placement with a parent is unlikely within six months, whether adoption should be pursued and, if so, any barriers to the juvenile's adoption.
- (4) Where the juvenile's placement with a parent is unlikely within six months, whether the juvenile should remain in the current placement, or be placed in another permanent living arrangement and why.
- (5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile.
- (6) Any other criteria the court deems necessary.

(f) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services and has been in placement outside the home for 12 of the most recent 22 months, or a court of competent jurisdiction has determined that the parent (i) has abandoned the child, (ii) has committed murder or voluntary manslaughter of another child of the parent, or (iii) has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, the director of the department of social services shall initiate a proceeding to terminate the parental rights of the parent unless the court finds any of the following:

- (1) The primary permanent plan for the juvenile is guardianship or custody with a relative or some other suitable person.
- (2) The court makes specific findings as to why the filing of a petition for termination of parental rights is not in the best interests of the child.
- (3) The department of social services has not provided the juvenile's family with services the department deems necessary when reasonable efforts are still required to enable the juvenile's return to a safe home.

(g) At the conclusion of each permanency planning hearing, the judge shall make specific findings as to the best permanent plans to achieve a safe, permanent home for the juvenile within a reasonable period of time. The judge shall inform the parent, guardian, or custodian that failure or refusal to cooperate with the plan may result in an order of the court in a subsequent permanency planning hearing that reunification efforts may cease.

(h) The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(i) The court may maintain the juvenile's placement under review or order a different placement, appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600, or order any disposition authorized by G.S. 7B-903, including the authority to place the child in the

custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile.

(j) If the court determines that the juvenile shall be placed in the custody of an individual other than a parent or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile.

(k) If at any time custody is placed with a parent or findings are made in accordance with subsection (n) of this section, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

(l) If the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-903.1 shall apply to any order entered under this section.

(m) If the court finds that a proceeding to terminate the parental rights of the juvenile's parents is necessary in order to perfect the primary permanent plan for the juvenile, the director of the department of social services shall file a petition to terminate parental rights within 60 calendar days from the date of the entry of the order unless the court makes written findings regarding why the petition cannot be filed within 60 days. If the court makes findings to the contrary, the court shall specify the time frame in which any needed petition to terminate parental rights shall be filed.

(n) Notwithstanding other provisions of this Article, the court may waive the holding of hearings required by this section, may require written reports to the court by the agency or person holding custody in lieu of review hearings, or order that review hearings be held less often than every six months if the court finds by clear, cogent, and convincing evidence each of the following:

- (1) The juvenile has resided in the placement for a period of at least one year.
- (2) The placement is stable and continuation of the placement is in the juvenile's best interests.
- (3) Neither the juvenile's best interests nor the rights of any party require that review hearings be held every six months.
- (4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review or on the court's own motion.
- (5) The court order has designated the relative or other suitable person as the juvenile's permanent custodian or guardian of the person.

The court may not waive or refuse to conduct a review hearing if a party files a motion seeking the review. However, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with subsection (n) of this section that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b). (2013-129, s. 26; 2015-136, ss. 13, 17.)

§ 7B-906.2. Permanent plans; concurrent planning.

(a) At any permanency planning hearing pursuant to G.S. 7B-906.1, the court shall adopt one or more of the following permanent plans the court finds is in the juvenile's best interest:

- (1) Reunification as defined by G.S. 7B-101.
- (2) Adoption under Article 3 of Chapter 48 of the General Statutes.
- (3) Guardianship pursuant to G.S. 7B-600(b).

- (4) Custody to a relative or other suitable person.
 - (5) Another Planned Permanent Living Arrangement (APPLA) pursuant to G.S. 7B-912.
 - (6) Reinstatement of parental rights pursuant to G.S. 7B-1114.
- (a1) Concurrent planning shall continue until a permanent plan has been achieved.
 - (b) At any permanency planning hearing, the court shall adopt concurrent permanent plans and shall identify the primary plan and secondary plan. Reunification shall remain a primary or secondary plan unless the court made findings under G.S. 7B-901(c) or makes written findings that reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile's health or safety. The court shall order the county department of social services to make efforts toward finalizing the primary and secondary permanent plans and may specify efforts that are reasonable to timely achieve permanence for the juvenile.
 - (c) At the first permanency planning hearing held pursuant to G.S. 7B-906.1, the court shall make a finding about whether the efforts of the county department of social services toward reunification were reasonable, unless reunification efforts were ceased in accordance with G.S. 7B-901(c) or this section. In every subsequent permanency planning hearing held pursuant to G.S. 7B-906.1, the court shall make written findings about the efforts the county department of social services has made toward the primary permanent plan and any secondary permanent plans in effect prior to the hearing. The court shall make a conclusion about whether efforts to finalize the permanent plan were reasonable to timely achieve permanence for the juvenile.
 - (d) At any permanency planning hearing under subsections (b) and (c) of this section, the court shall make written findings as to each of the following, which shall demonstrate lack of success:
 - (1) Whether the parent is making adequate progress within a reasonable period of time under the plan.
 - (2) Whether the parent is actively participating in or cooperating with the plan, the department, and the guardian ad litem for the juvenile.
 - (3) Whether the parent remains available to the court, the department, and the guardian ad litem for the juvenile.
 - (4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.
 - (e) If the juvenile is 14 years of age or older, the court shall make written findings in accordance with G.S. 7B-912(a), regardless of the juvenile's permanent plan. (2015-136, s. 14.)

§ 7B-907: Repealed by Session Laws 2013-129, s. 25, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

§ 7B-908. Post termination of parental rights' placement court review.

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, the person providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7B-1103(2) through (5) and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is the subject of a decree of adoption:

- (1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the person providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the person providing care for the child for notice under this subsection or file written documentation with the clerk that the child's current care provider was sent notice of hearing. Only the juvenile, if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the person providing care for the juvenile, and the guardian ad litem shall attend the review hearings, except as otherwise directed by the court. Nothing in this subdivision shall be construed to make the person a party to the proceeding solely based on receiving notice and the right to be heard. Any individual whose parental rights have been terminated shall not be considered a party to the proceeding unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal.
- (2) If a guardian ad litem for the juvenile has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian ad litem to represent the juvenile. The court may continue the case for such time as is necessary for the guardian ad litem to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review and make written findings regarding the following that are relevant:

- (1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the juvenile's best interests and the efforts of the department or agency to implement such plan.
 - (2) Whether the juvenile has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency.
 - (3) The efforts previously made by the department or agency to find a permanent home for the juvenile.
 - (4) Whether the current placement is in the juvenile's best interest.
- (d) The court, after making findings of fact, shall do one of the following:
- (1) Affirm the county department's or child-placing agency's plans.
 - (2) If a juvenile is not placed with prospective adoptive parents as selected in G.S. 7B-1112.1, order a placement or different plan the court finds to be in the juvenile's best interest after considering the department's recommendations.

In either case, the court may require specific additional steps that are necessary to accomplish a permanent placement that is in the best interests of the juvenile.

(e) If the juvenile is the subject of a decree of adoption prior to the date scheduled for the review, within 10 days of receiving notice that the adoption decree has been entered, the

department of social services shall file with the court and serve on any guardian ad litem for the juvenile written notice of the entry. The adoption decree shall not be filed in the court file. The review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified.

(f) Repealed by Session Laws 2011-295, s. 10, effective October 1, 2011, and applicable to actions filed or pending on or after that date. (1983, c. 607, s. 1; 1993, c. 537, s. 2; 1998-202, s. 6; 1998-229, ss. 9, 26; 1999-456, s. 60; 2003-62, s. 4; 2005-398, s. 8; 2007-276, s. 5; 2009-311, s. 8; 2011-295, s. 10; 2013-129, s. 27.)

§ 7B-909. Review of agency's plan for placement.

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters if the juvenile is in the custody of the department or agency and has not become the subject of a decree of adoption within six months following relinquishment of the juvenile for adoption by a parent, guardian, or guardian ad litem under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes.

(b) Repealed by Session Laws 2007-276, s. 6, effective October 1, 2007.

(b1) If the court finds on motion of a department of social services or licensed child-placing agency that a consent or relinquishment for adoption necessary for the juvenile to be adopted cannot be obtained, and that no further steps are being taken to terminate the parental rights of the parent from whom consent or relinquishment has not been obtained, the court may order, upon finding that it is in the juvenile's best interest, that any relinquishment for adoption signed by a parent who has surrendered the child for adoption shall be voided pursuant to G.S. 48-3-707(a)(4). Before voiding any relinquishment under this subsection, the court shall require the county department of social services or licensed child-placing agency to give at least 15 days' notice to the relinquishing parent whose rights will be restored. The relinquishing parent shall have the right to be heard on (i) whether the relinquishment should be voided and (ii) the parent's plan to provide for the juvenile if the relinquishment is voided. If after due diligence the relinquishing parent cannot be located, the notice of hearing shall be deposited in the United States mail, return receipt requested, and sent to the address of the parent given in the relinquishment. The date of receipt of the notice is deemed the date of delivery or last attempted delivery.

(c) Notification of the court under this section shall be by a petition for review or motion for review, if the court is exercising jurisdiction over the juvenile. The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is the subject of a decree of adoption. However, further reviews are not required after the voiding of a relinquishment under subsection (b1) of this section. The initial review and all subsequent reviews, except a review hearing under subsection (b1) of this section, shall be conducted pursuant to G.S. 7B-908. Any individual whose parental rights have been terminated or who has relinquished the juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes shall not be considered a party to the review unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal. (1983, c. 607, s. 2; 1993, c. 537, s. 4; 1995, c. 457, s. 6; 1998-202, s. 6; 1998-229, s. 9; 1999-456, s. 60; 2005-398, s. 9; 2007-276, s. 6; 2013-129, s. 28; 2013-236, s. 1; 2013-410, s. 27.)

§ 7B-910. Review of voluntary foster care placements.

(a) The court shall review the placement of any juvenile in foster care made pursuant to a voluntary agreement between the juvenile's parents or guardian and a county department of social services and shall make findings from evidence presented at a review hearing with regard to:

- (1) The voluntariness of the placement;
- (2) The appropriateness of the placement;
- (3) Whether the placement is in the best interests of the juvenile; and
- (4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.

(b) The court may approve the continued placement of the juvenile in foster care on a voluntary agreement basis, disapprove the continuation of the voluntary placement, or direct the department of social services to petition the court for legal custody if the placement is to continue.

(c) An initial review hearing shall be held not more than 90 days after the juvenile's placement and shall be calendared by the clerk for hearing within such period upon timely request by the director of social services. An additional review hearing shall be held 90 days thereafter and any review hearings at such times as the court shall deem appropriate and shall direct, either upon its own motion or upon written request of the parents, guardian, foster parents, or director of social services. A juvenile placed under a voluntary agreement between the juvenile's parent or guardian and the county department of social services shall not remain in placement more than six months without the filing of a petition alleging abuse, neglect, or dependency.

(d) The clerk shall give at least 15 days' advance written notice of the initial and subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12 or more years of age, to the director of social services, and to any other persons whom the court may specify. (1983, c. 607, s. 2; 1993, c. 537, s. 4; 1995, c. 457, s. 6; 1998-202, s. 6; 1999-456, s. 60; 2001-208, s. 21; 2001-487, s. 101.)

§ 7B-910.1. (Effective January 1, 2017) Review of voluntary foster care placements with young adults.

(a) The court shall review the placement of a young adult in foster care authorized by G.S. 108A-48(c) when the director of social services and a young adult who was in foster care as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not more than 90 days from the date the agreement was executed, and the court shall make findings from evidence presented at this review hearing with regard to all of the following:

- (1) Whether the placement is in the best interest of the young adult in foster care.
- (2) The services that have been or should be provided to the young adult in foster care to improve the placement.
- (3) The services that have been or should be provided to the young adult in foster care to further the young adult's educational or vocational ambitions, if relevant.

(b) Upon written request of the young adult or the director of social services, the court may schedule additional hearings to monitor the placement and progress toward the young adult's educational or vocational ambitions.

(c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young

adult in the initial or any subsequent hearing.

(d) The clerk shall give written notice of the initial and any subsequent review hearings to the young adult and foster care and the director of social services at least 15 days prior to the date of the hearing. (2015-241, s. 12C.9(g).)

§ 7B-911. Civil child custody order.

(a) Upon placing custody with a parent or other appropriate person, the court shall determine whether or not jurisdiction in the juvenile proceeding should be terminated and custody of the juvenile awarded to a parent or other appropriate person pursuant to G.S. 50-13.1, 50-13.2, 50-13.5, and 50-13.7.

(b) When the court enters a custody order under this section, the court shall either cause the order to be filed in an existing civil action relating to the custody of the juvenile or, if there is no other civil action, instruct the clerk to treat the order as the initiation of a civil action for custody.

If the order is filed in an existing civil action and the person to whom the court is awarding custody is not a party to that action, the court shall order that the person be joined as a party and that the caption of the case be changed accordingly. The order shall resolve any pending claim for custody and shall constitute a modification of any custody order previously entered in the action.

If the court's order initiates a civil action, the court shall designate the parties to the action and determine the most appropriate caption for the case. The civil filing fee is waived unless the court orders one or more of the parties to pay the filing fee for a civil action into the office of the clerk of superior court. The order shall constitute a custody determination, and any motion to enforce or modify the custody order shall be filed in the newly created civil action in accordance with the provisions of Chapter 50 of the General Statutes. The Administrative Office of the Courts may adopt rules and shall develop and make available appropriate forms for establishing a civil file to implement this section.

(c) When entering an order under this section, the court shall satisfy the following:

(1) Make findings and conclusions that support the entry of a custody order in an action under Chapter 50 of the General Statutes or, if the juvenile is already the subject of a custody order entered pursuant to Chapter 50, makes findings and conclusions that support modification of that order pursuant to G.S. 50-13.7.

(2) Make the following findings:

a. There is not a need for continued State intervention on behalf of the juvenile through a juvenile court proceeding.

b. At least six months have passed since the court made a determination that the juvenile's placement with the person to whom the court is awarding custody is the permanent plan for the juvenile, though this finding is not required if the court is awarding custody to a parent or to a person with whom the child was living when the juvenile petition was filed. (2005-320, s. 4; 2013-129, s. 29.)

§ 7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living Arrangement.

(a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every permanency planning hearing for a juvenile in the custody of a county department of social

services who has attained the age of 14 years, the court shall inquire and make written findings regarding each of the following:

- (1) The services provided to assist the juvenile in making a transition to adulthood.
- (2) The steps the county department of social services is taking to ensure that the foster family or other licensed placement provider follows the reasonable and prudent parent standard as provided in G.S. 131D-10.2A.
- (3) Whether the juvenile has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

(b) At or before the last scheduled permanency planning hearing, but at least 90 days before a juvenile attains 18 years of age, the court shall (i) inquire as to whether the juvenile has a copy of the juvenile's birth certificate, Social Security card, health insurance information, drivers license or other identification card, and any educational or medical records the juvenile requests and (ii) determine the person or entity that should assist the juvenile in obtaining these documents before the juvenile attains the age of 18 years.

(c) If the court finds each of the following conditions applies, the court shall approve Another Planned Permanent Living Arrangement (APPLA) as defined by P.L. 113-183, as the juvenile's primary permanent plan:

- (1) The juvenile is 16 or 17 years old.
- (2) The county department of social services has made diligent efforts to place the juvenile permanently with a parent or relative or in a guardianship or adoptive placement.
- (3) Compelling reasons exist that it is not in the best interest of the juvenile to be placed permanently with a parent or relative or in a guardianship or adoptive placement.
- (4) APPLA is the best permanency plan for the juvenile.

(d) If the court approves APPLA as the juvenile's permanent plan, the court shall, after questioning the juvenile, make written findings addressing the juvenile's desired permanency outcome. (2015-135, s. 2.6; 2015-136, s. 15.)

Article 10.

Modification and Enforcement of Dispositional Orders; Appeals.

§ 7B-1000. Authority to modify or vacate.

(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and the court may modify or vacate the order in light of changes in circumstances or the needs of the juvenile. Notwithstanding the provision of this subsection, if a guardian of the person has been appointed for the juvenile and the court has also made findings that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b).

(b) In any case where the court finds the juvenile to be abused, neglected, or dependent, the jurisdiction of the court to modify any order or disposition made in the case shall continue during the minority of the juvenile, until terminated by order of the court, or until the juvenile is otherwise emancipated. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-124, s. 3; 2013-129, s. 30.)

§ 7B-1001. Right to appeal.

(a) In a juvenile matter under this Subchapter, appeal of a final order of the court in a juvenile matter shall be made directly to the Court of Appeals. Only the following juvenile matters may be appealed:

- (1) Any order finding absence of jurisdiction.
- (2) Any order, including the involuntary dismissal of a petition, which in effect determines the action and prevents a judgment from which appeal might be taken.
- (3) Any initial order of disposition and the adjudication order upon which it is based.
- (4) Any order, other than a nonsecure custody order, that changes legal custody of a juvenile.
- (5) An order entered under G.S. 7B-906.2(b) with rights to appeal properly preserved, as follows:
 - a. The Court of Appeals shall review the order eliminating reunification as a permanent plan together with an appeal of the termination of parental rights order if all of the following apply:
 1. A motion or petition to terminate the parent's rights is heard and granted.
 2. The order terminating parental rights is appealed in a proper and timely manner.
 3. The order eliminating reunification as a permanent plan is identified as an issue in the record on appeal of the termination of parental rights.
 - b. A party who is a parent shall have the right to appeal the order if no termination of parental rights petition or motion is filed within 180 days of the order.
 - c. A party who is a custodian or guardian shall have the right to immediately appeal the order.
- (6) Any order that terminates parental rights or denies a petition or motion to terminate parental rights.

(b) Notice of appeal and notice to preserve the right to appeal shall be given in writing by a proper party as defined in G.S. 7B-1002 and shall be made within 30 days after entry and service of the order in accordance with G.S. 1A-1, Rule 58.

(c) Notice of appeal shall be signed by both the appealing party and counsel for the appealing party, if any. In the case of an appeal by a juvenile, notice of appeal shall be signed by the guardian ad litem attorney advocate. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2001-208, s. 25; 2001-487, s. 101; 2005-398, s. 10; 2011-295, s. 11; 2013-129, s. 31; 2015-136, s. 16.)

§ 7B-1002. Proper parties for appeal.

Appeal from an order permitted under G.S. 7B-1001 may be taken by:

- (1) A juvenile acting through the juvenile's guardian ad litem previously appointed under G.S. 7B-601.
- (2) A juvenile for whom no guardian ad litem has been appointed under G.S. 7B-601. If such an appeal is made, the court shall appoint a guardian ad litem pursuant to G.S. 1A-1, Rule 17 for the juvenile for the purposes of that appeal.

- (3) A county department of social services.
- (4) A parent, a guardian appointed under G.S. 7B-600 or Chapter 35A of the General Statutes, or a custodian as defined in G.S. 7B-101 who is a nonprevailing party.
- (5) Any party that sought but failed to obtain termination of parental rights. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-398, s. 11.)

§ 7B-1003. Disposition pending appeal.

(a) During an appeal of an order entered under this Subchapter, the trial court may enforce the order unless the trial court or an appellate court orders a stay.

(b) Pending disposition of an appeal, unless directed otherwise by an appellate court or subsection (c) of this section applies, the trial court shall:

- (1) Continue to exercise jurisdiction and conduct hearings under this Subchapter with the exception of Article 11 of the General Statutes; and
- (2) Enter orders affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile.

(c) Pending disposition of an appeal of an order entered under Article 11 of this Chapter where the petition for termination of parental rights was not filed as a motion in a juvenile matter initiated under Article 4 of this Chapter, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile. Upon the affirmation of the order of adjudication or disposition of the court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of an appeal, the court shall have authority to modify or alter its original order of adjudication or disposition as the court finds to be in the best interests of the juvenile to reflect any adjustment made by the juvenile or change in circumstances during the period of time the case on appeal was pending, provided that if the modifying order be entered ex parte, the court shall give notice to interested parties to show cause, if there be any, within 10 days thereafter, as to why the modifying order should be vacated or altered.

(d) When the court has found that a juvenile has suffered physical abuse and that the individual responsible for the abuse has a history of violent behavior, the court shall consider the opinion of the mental health professional who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual pending resolution of an appeal.

(e) The provisions of subsections (b), (c), and (d) of G.S. 7B-905 shall apply to any order entered during an appeal that provides for the placement or continued placement of a juvenile in foster care. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 12; 1998-202, s. 6; 1999-318, s. 8; 1999-456, s. 60; 2001-208, s. 27; 2001-487, s. 101; 2003-140, s. 8; 2005-398, s. 12.)

§ 7B-1004. Disposition after appeal.

When an order of the court is affirmed by the Court of Appeals or by the Supreme Court, the trial court may modify or alter the original order as the court finds to be in the best interests of the juvenile to reflect any change in circumstances during the period of time the appeal was pending. If the modifying order is entered ex parte, the court shall give notice to interested parties to show cause within 10 days thereafter as to why the modifying order should be vacated or altered. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-398, s. 13.)

Article 11.
Termination of Parental Rights.

§ 7B-1100. Legislative intent; construction of Article.

The General Assembly hereby declares as a matter of legislative policy with respect to termination of parental rights:

- (1) The general purpose of this Article is to provide judicial procedures for terminating the legal relationship between a juvenile and the juvenile's biological or legal parents when the parents have demonstrated that they will not provide the degree of care which promotes the healthy and orderly physical and emotional well-being of the juvenile.
- (2) It is the further purpose of this Article to recognize the necessity for any juvenile to have a permanent plan of care at the earliest possible age, while at the same time recognizing the need to protect all juveniles from the unnecessary severance of a relationship with biological or legal parents.
- (3) Action which is in the best interests of the juvenile should be taken in all cases where the interests of the juvenile and those of the juvenile's parents or other persons are in conflict.
- (4) This Article shall not be used to circumvent the provisions of Chapter 50A of the General Statutes, the Uniform Child-Custody Jurisdiction and Enforcement Act. (1977, c. 879, s. 8; 1979, c. 110, s. 6; 1998-202, s. 6; 1999-223, s. 5; 1999-456, s. 60.)

§ 7B-1101. Jurisdiction.

The court shall have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition or motion. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. Provided, that before exercising jurisdiction under this Article, the court shall find that it has jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201, 50A-203, or 50A-204. The court shall have jurisdiction to terminate the parental rights of any parent irrespective of the state of residence of the parent. Provided, that before exercising jurisdiction under this Article regarding the parental rights of a nonresident parent, the court shall find that it has jurisdiction to make a child-custody determination under the provisions of G.S. 50A-201 or G.S. 50A-203, without regard to G.S. 50A-204 and that process was served on the nonresident parent pursuant to G.S. 7B-1106. Provided, further, that the clerk of superior court shall have jurisdiction for adoptions under Chapter 48 of the General Statutes. (1977, c. 879, s. 8; 1979, c. 110, s. 7; 1979, 2nd Sess., c. 1206, s. 1; 1981, c. 996, s. 1; 1983, c. 89, s. 1; 1995, c. 457, s. 3; 1998-202, s. 6; 1999-223, s. 6; 1999-456, s. 60; 2000-144, s. 18; 2000-183, s. 2; 2003-140, s. 4; 2005-398, s. 14; 2007-152, s. 1.)

§ 7B-1101.1. Parent's right to counsel; guardian ad litem.

(a) The parent has the right to counsel, and to appointed counsel in cases of indigency, unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of Indigent Defense Services. When a petition is filed, unless the parent is already represented by counsel, the clerk shall appoint provisional counsel for each respondent parent named in the

petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons. At the first hearing after service upon the respondent parent, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent. The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. This examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel under subsection (a) of this section, a guardian ad litem shall be appointed in accordance with G.S. 1A-1, Rule 17, to represent any parent who is under the age of 18 years and who is not married or otherwise emancipated.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

(e) Repealed by Session Laws 2013-129, s. 32, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

(f) The fees of a guardian ad litem appointed pursuant to this section shall be borne by the Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases, the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel. (2005-398, s. 15; 2009-311, s. 9; 2011-326, s. 12(b); 2012-194, s. 41; 2013-129, s. 32.)

§ 7B-1102. Pending child abuse, neglect, or dependency proceedings.

(a) When the district court is exercising jurisdiction over a juvenile and the juvenile's parent in an abuse, neglect, or dependency proceeding, a person or agency specified in G.S. 7B-1103(a) may file in that proceeding a motion for termination of the parent's rights in relation to the juvenile.

(b) A motion pursuant to subsection (a) of this section and the notice required by G.S. 7B-1106.1 shall be served in accordance with G.S. 1A-1, Rule 5(b), except:

- (1) Service must be in accordance with G.S. 1A-1, Rule 4, if one of the following applies:
 - a. The person or agency to be served was not served originally with summons.
 - b. The person or agency to be served was served originally by publication that did not include notice substantially in conformity with the notice required by G.S. 7B-406(b)(4)e.
 - c. Two years has elapsed since the date of the original action.

- (2) In any case, the court may order that service of the motion and notice be made pursuant to G.S. 1A-1, Rule 4.

For purposes of this section, the parent of the juvenile shall not be deemed to be under disability even though the parent is a minor.

(b1) If a parent who is served under G.S. 1A-1, Rule 4, with a motion under this section has an attorney of record, a copy of the motion and the notice served upon the parent shall also be sent to the parent's attorney.

(c) When a petition for termination of parental rights is filed in the same district in which there is pending an abuse, neglect, or dependency proceeding involving the same juvenile, the court on its own motion or motion of a party may consolidate the action pursuant to G.S. 1A-1, Rule 42. (1998-229, ss. 9.1, 26.1; 1999-456, s. 60; 2000-183, s. 3; 2011-332, s. 4.1.)

§ 7B-1103. Who may file a petition or motion.

(a) A petition or motion to terminate the parental rights of either or both parents to his, her, or their minor juvenile may only be filed by one or more of the following:

- (1) Either parent seeking termination of the right of the other parent.
- (2) Any person who has been judicially appointed as the guardian of the person of the juvenile.
- (3) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to whom custody of the juvenile has been given by a court of competent jurisdiction.
- (4) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to which the juvenile has been surrendered for adoption by one of the parents or by the guardian of the person of the juvenile, pursuant to G.S. 48-3-701.
- (5) Any person with whom the juvenile has resided for a continuous period of two years or more next preceding the filing of the petition or motion.
- (6) Any guardian ad litem appointed to represent the minor juvenile pursuant to G.S. 7B-601 who has not been relieved of this responsibility.
- (7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the General Statutes.

(b) Any person or agency that may file a petition under subsection (a) of this section may intervene in a pending abuse, neglect, or dependency proceeding for the purpose of filing a motion to terminate parental rights.

(c) **(See Editor's note)** No person whose actions resulted in a conviction under G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 and the conception of the juvenile may file a petition to terminate the parental rights of another with respect to that juvenile. (1977, c. 879, s. 8; 1983, c. 870, s. 1; 1985, c. 758, s. 1; 1987, c. 371, s. 2; 1995 (Reg. Sess., 1996), c. 690, s. 4; 1998-202, s. 6; 1998-229, s. 9.1; 1999-456, s. 60; 2000-183, s. 4; 2004-128, s. 13; 2015-181, s. 23; 2015-264, s. 33(b).)

§ 7B-1104. Petition or motion.

The petition, or motion pursuant to G.S. 7B-1102, shall be verified by the petitioner or movant and shall be entitled "In Re (last name of juvenile), a minor juvenile", who shall be a party to the action, and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner or movant shall so state:

- (1) The name of the juvenile as it appears on the juvenile's birth certificate, the

- date and place of birth, and the county where the juvenile is presently residing.
- (2) The name and address of the petitioner or movant and facts sufficient to identify the petitioner or movant as one authorized by G.S. 7B-1103 to file a petition or motion.
 - (3) **(See Editor's note)** The name and address of the parents of the juvenile. If the name or address of one or both parents is unknown to the petitioner or movant, the petitioner or movant shall set forth with particularity the petitioner's or movant's efforts to ascertain the identity or whereabouts of the parent or parents. The information may be contained in an affidavit attached to the petition or motion and incorporated therein by reference. A person whose actions resulted in a conviction under G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 and the conception of the juvenile need not be named in the petition.
 - (4) The name and address of any person who has been judicially appointed as guardian of the person of the juvenile.
 - (5) The name and address of any person or agency to whom custody of the juvenile has been given by a court of this or any other state; and a copy of the custody order shall be attached to the petition or motion.
 - (6) Facts that are sufficient to warrant a determination that one or more of the grounds for terminating parental rights exist.
 - (7) That the petition or motion has not been filed to circumvent the provisions of Article 2 of Chapter 50A of the General Statutes, the Uniform Child-Custody Jurisdiction and Enforcement Act. (1977, c. 879, s. 8; 1979, c. 110, s. 8; 1981, c. 469, s. 23; 1987, c. 550, s. 15; 1998-202, s. 6; 1999-223, s. 7; 1999-456, s. 60; 2000-183, s. 5; 2004-128, s. 14; 2009-38, s. 2; 2015-181, s. 24; 2015-264, s. 33(c).)

§ 7B-1105. Preliminary hearing; unknown parent.

(a) If either the name or identity of any parent whose parental rights the petitioner seeks to terminate is not known to the petitioner, the court shall, within 10 days from the date of filing of the petition, or during the next term of court in the county where the petition is filed if there is no court in the county in that 10-day period, conduct a preliminary hearing to ascertain the name or identity of such parent.

(b) The court may, in its discretion, inquire of any known parent of the juvenile concerning the identity of the unknown parent and may order the petitioner to conduct a diligent search for the parent. Should the court ascertain the name or identity of the parent, it shall enter a finding to that effect; and the parent shall be summoned to appear in accordance with G.S. 7B-1106.

(c) Notice of the preliminary hearing need be given only to the petitioner who shall appear at the hearing, but the court may cause summons to be issued to any person directing the person to appear and testify.

(d) If the court is unable to ascertain the name or identity of the unknown parent, the court shall order publication of notice of the termination proceeding and shall specifically order the place or places of publication and the contents of the notice which the court concludes is most likely to identify the juvenile to such unknown parent. The notice shall be published in a newspaper qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and

published in the counties directed by the court, once a week for three successive weeks. Provided, further, the notice shall:

- (1) Designate the court in which the petition is pending;
- (2) Be directed to "the father (mother) (father and mother) of a male (female) juvenile born on or about _____ in _____ County, _____, _____ (city) _____, respondent";
(State)
- (3) Designate the docket number and title of the case (the court may direct the actual name of the title be eliminated and the words "In Re Doe" substituted therefor);
- (4) State that a petition seeking to terminate the parental rights of the respondent has been filed;
- (5) Direct the respondent to answer the petition within 30 days after a date stated in the notice, exclusive of such date, which date so stated shall be the date of first publication of notice and be substantially in the form as set forth in G.S. 1A-1, Rule 4(j1); and
- (6) State that the respondent's parental rights to the juvenile will be terminated upon failure to answer the petition within the time prescribed.

Upon completion of the service, an affidavit of the publisher shall be filed with the court.

(e) The court shall issue the order required by subsections (b) and (d) of this section within 30 days from the date of the preliminary hearing unless the court shall determine that additional time for investigation is required.

(f) Upon the failure of the parent served by publication pursuant to subsection (d) of this section to answer the petition within the time prescribed, the court shall issue an order terminating all parental rights of the unknown parent. (1977, c. 879, s. 8; 1987, c. 282, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2011-295, s. 12.)

§ 7B-1106. Issuance of summons.

(a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court shall cause a summons to be issued. The summons shall be directed to the following persons or agency, not otherwise a party petitioner, who shall be named as respondents:

- (1) The parents of the juvenile. However, a summons does not need to be directed to or served upon any parent who, under Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of social services or licensed child-placing agency or to any parent who has consented to the adoption of the juvenile by the petitioner.
- (2) Any person who has been judicially appointed as guardian of the person of the juvenile.
- (3) The custodian of the juvenile appointed by a court of competent jurisdiction.
- (4) Any county department of social services or licensed child-placing agency to whom a juvenile has been released by one parent pursuant to Part 7 of Article 3 of Chapter 48 of the General Statutes or any county department of social services to whom placement responsibility for the child has been given by a court of competent jurisdiction.

(5) Repealed by Session Laws 2009-38, s. 3, effective May 27, 2009.

The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition. Service of the summons shall be completed as provided under the procedures established by G.S. 1A-1, Rule 4(j). But the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(a1) If a guardian ad litem has been appointed for the juvenile pursuant to G.S. 7B-601 and has not been relieved of responsibility or if the court appoints a guardian ad litem for the juvenile after the petition is filed, a copy of all pleadings and other papers required to be served shall be served on the juvenile's guardian ad litem or attorney advocate pursuant to procedures established under G.S. 1A-1, Rule 5.

(a2) If an attorney has been appointed for a respondent pursuant to G.S. 7B-602 and has not been relieved of responsibility, a copy of all pleadings and other papers required to be served on the respondent shall be served on the respondent's attorney pursuant to procedures established under G.S. 1A-1, Rule 5.

(b) The summons shall be issued for the purpose of terminating parental rights pursuant to the provisions of subsection (a) of this section and shall include:

- (1) The name of the minor juvenile;
- (2) Notice that a written answer to the petition must be filed with the clerk who signed the petition within 30 days after service of the summons and a copy of the petition, or the parent's rights may be terminated;
- (3) Notice that any counsel appointed previously and still representing the parent in an abuse, neglect, or dependency proceeding shall continue to represent the parent unless otherwise ordered by the court;
- (4) Notice that if the parent is indigent and is not already represented by appointed counsel, the parent is entitled to appointed counsel, that provisional counsel has been appointed, and that the appointment of provisional counsel shall be reviewed by the court at the first hearing after service;
- (5) Notice that the date, time, and place of any pretrial hearing pursuant to G.S. 7B-1108.1 and the hearing on the petition will be mailed by the petitioner upon filing of the answer or 30 days from the date of service if no answer is filed; and
- (6) Notice of the purpose of the hearing and notice that the parents may attend the termination hearing.

(c) If a county department of social services, not otherwise a party petitioner, is served with a petition alleging that the parental rights of the parent should be terminated pursuant to G.S. 7B-1111, the department shall file a written answer and shall be deemed a party to the proceeding. (1977, c. 879, s. 8; 1981, c. 966, s. 2; 1983, c. 581, ss. 1, 2; 1995, c. 457, s. 4; 1998-202, s. 6; 1998-229, ss. 10, 27; 1999-456, s. 60; 2000-183, s. 13; 2001-208, s. 28; 2001-487, s. 101; 2009-38, s. 3; 2009-311, s. 10; 2011-295, s. 13; 2013-129, s. 33.)

§ 7B-1106.1. Notice in pending child abuse, neglect, or dependency cases.

(a) Upon the filing of a motion pursuant to G.S. 7B-1102, the movant shall prepare a notice directed to each of the following persons or agency, not otherwise a movant:

- (1) The parents of the juvenile. However, notice does not need to be directed to or served upon any parent who, under Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of social services or licensed child-placing agency or to any parent who has consented to the

- adoption of the juvenile by the movant.
- (2) Any person who has been judicially appointed as guardian of the person of the juvenile.
 - (3) The custodian of the juvenile appointed by a court of competent jurisdiction.
 - (4) Any county department of social services or licensed child-placing agency to whom a juvenile has been released by one parent pursuant to Part 7 of Article 3 of Chapter 48 of the General Statutes or any county department of social services to whom placement responsibility for the juvenile has been given by a court of competent jurisdiction.
 - (5) The juvenile's guardian ad litem or attorney advocate, if one has been appointed pursuant to G.S. 7B-601 and has not been relieved of responsibility.
 - (6) Repealed by Session Laws 2009-38, s. 4, effective May 27, 2009.

The notice shall notify the person or agency to whom it is directed to file a written response within 30 days after service of the motion and notice. Service of the motion and notice shall be completed as provided under G.S. 7B-1102(b).

- (b) The notice required by subsection (a) of this section shall include all of the following:
 - (1) The name of the minor juvenile.
 - (2) Notice that a written response to the motion must be filed with the clerk within 30 days after service of the motion and notice, or the parent's rights may be terminated.
 - (3) Notice that any counsel appointed previously and still representing the parent in an abuse, neglect, or dependency proceeding will continue to represent the parents unless otherwise ordered by the court.
 - (4) Notice that if the parent is indigent, the parent is entitled to appointed counsel and if the parent is not already represented by appointed counsel the parent may contact the clerk immediately to request counsel.
 - (5) Notice that the date, time, and place of any pretrial hearing pursuant to G.S. 7B-1108.1 and the hearing on the motion will be mailed by the moving party upon filing of the response or 30 days from the date of service if no response is filed.
 - (6) Notice of the purpose of the hearing and notice that the parents may attend the termination hearing.

- (c) If a county department of social services, not otherwise a movant, is served with a motion seeking termination of a parent's rights, the director shall file a written response and shall be deemed a party to the proceeding. (2000-183, s. 6; 2009-38, s. 4; 2009-311, s. 11.)

§ 7B-1107. Failure of parent to answer or respond.

Upon the failure of a respondent parent to file written answer to the petition or written response to the motion within 30 days after service of the summons and petition or notice and motion, or within the time period established for a defendant's reply by G.S. 1A-1, Rule 4(j1) if service is by publication, the court may issue an order terminating all parental and custodial rights of that parent with respect to the juvenile; provided the court shall order a hearing on the petition or motion and may examine the petitioner or movant or others on the facts alleged in the petition or motion. (1977, c. 879, s. 8; 1979, c. 525, s. 3; 1987, c. 282, s. 2; 1998-202, s. 6; 1998-229, s. 10; 1999-456, s. 60; 2000-183, s. 7.)

§ 7B-1108. Answer or response of parent; appointment of guardian ad litem for juvenile.

(a) Any respondent may file a written answer to the petition or written response to the motion. Only a district court judge may grant an extension of time in which to answer or respond. The answer or response shall admit or deny the allegations of the petition or motion and shall set forth the name and address of the answering respondent or the respondent's attorney.

(b) If an answer or response denies any material allegation of the petition or motion, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition or motion was filed by the guardian ad litem pursuant to G.S. 7B-1103, or a guardian ad litem has already been appointed pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in G.S. 7B-601 and G.S. 7B-603, but in no event shall a guardian ad litem who is trained and supervised by the guardian ad litem program be appointed to any case unless the juvenile is or has been the subject of a petition for abuse, neglect, or dependency or with good cause shown the local guardian ad litem program consents to the appointment.

(c) In proceedings under this Article, the appointment of a guardian ad litem shall not be required except, as provided above, in cases in which an answer or response is filed denying material allegations, or as required under G.S. 7B-1101; but the court may, in its discretion, appoint a guardian ad litem for a juvenile, either before or after determining the existence of grounds for termination of parental rights, in order to assist the court in determining the best interests of the juvenile.

(d) If a guardian ad litem has previously been appointed for the juvenile under G.S. 7B-601, and the appointment of a guardian ad litem could also be made under this section, the guardian ad litem appointed under G.S. 7B-601, and any attorney appointed to assist that guardian, shall also represent the juvenile in all proceedings under this Article and shall have the duties and payment of a guardian ad litem appointed under this section, unless the court determines that the best interests of the juvenile require otherwise. (1977, c. 879, s. 8; 1981 (Reg. Sess., 1982), c. 1331, s. 3; 1983, c. 870, s. 2; 1989 (Reg. Sess., 1990), c. 851, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-183, s. 8; 2003-140, s. 7; 2009-311, s. 12; 2011-295, s. 14.)

§ 7B-1108.1. Pretrial hearing.

(a) The court shall conduct a pretrial hearing. However, the court may combine the pretrial hearing with the adjudicatory hearing on termination in which case no separate pretrial hearing order is required. At the pretrial hearing, the court shall consider the following:

- (1) Retention or release of provisional counsel.
- (2) Whether a guardian ad litem should be appointed for the juvenile, if not previously appointed.
- (3) Whether all summons, service of process, and notice requirements have been met.
- (4) Any pretrial motions.
- (5) Any issues raised by any responsive pleading, including any affirmative defenses.
- (6) Any other issue which can be properly addressed as a preliminary matter.

(b) Written notice of the pretrial hearing shall be in accordance with G.S. 7B-1106 and G.S. 7B-1106.1. (2009-311, s. 13.)

§ 7B-1109. Adjudicatory hearing on termination.

(a) The hearing on the termination of parental rights shall be conducted by the court sitting without a jury and shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 90 days from the filing of the petition or motion unless the judge pursuant to subsection (d) of this section orders that it be held at a later time. Reporting of the hearing shall be as provided by G.S. 7A-198 for reporting civil trials.

(b) The court shall inquire whether the juvenile's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, counsel shall be appointed to represent them in accordance with rules adopted by the Office of Indigent Defense Services. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination petition or motion.

(c) The court may, upon finding that reasonable cause exists, order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, a public or private agency, or any other expert in order that the juvenile's psychological or physical condition or needs may be ascertained or, in the case of a parent whose ability to care for the juvenile is at issue, the court may order a similar examination of any parent of the juvenile.

(d) The court may for good cause shown continue the hearing for up to 90 days from the date of the initial petition in order to receive additional evidence including any reports or assessments that the court has requested, to allow the parties to conduct expeditious discovery, or to receive any other information needed in the best interests of the juvenile. Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance.

(e) The court shall take evidence, find the facts, and shall adjudicate the existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which authorize the termination of parental rights of the respondent. The adjudicatory order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(f) The burden in such proceedings shall be upon the petitioner or movant and all findings of fact shall be based on clear, cogent, and convincing evidence. The rules of evidence in civil cases shall apply. No husband-wife or physician-patient privilege shall be grounds for excluding any evidence regarding the existence or nonexistence of any circumstance authorizing the termination of parental rights. (1977, c. 879, s. 8; 1979, c. 669, s. 1; 1981, c. 966, s. 3; (Reg. Sess., 1982), c. 1331, s. 3; 1983, c. 870, s. 2; 1989 (Reg. Sess., 1990), c. 851, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-144, s. 19; 2000-183, s. 9; 2001-208, ss. 7, 22; 2001-487, s. 101; 2003-304, s. 2; 2005-398, s. 16; 2011-295, s. 15; 2013-129, s. 34.)

§ 7B-1110. Determination of best interests of the juvenile.

(a) After an adjudication that one or more grounds for terminating a parent's rights exist,

the court shall determine whether terminating the parent's rights is in the juvenile's best interest. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the best interests of the juvenile. In each case, the court shall consider the following criteria and make written findings regarding the following that are relevant:

- (1) The age of the juvenile.
- (2) The likelihood of adoption of the juvenile.
- (3) Whether the termination of parental rights will aid in the accomplishment of the permanent plan for the juvenile.
- (4) The bond between the juvenile and the parent.
- (5) The quality of the relationship between the juvenile and the proposed adoptive parent, guardian, custodian, or other permanent placement.
- (6) Any relevant consideration.

Any order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(b) Should the court conclude that, irrespective of the existence of one or more circumstances authorizing termination of parental rights, the best interests of the juvenile require that rights should not be terminated, the court shall dismiss the petition or deny the motion, but only after setting forth the facts and conclusions upon which the dismissal or denial is based.

(c) Should the court determine that circumstances authorizing termination of parental rights do not exist, the court shall dismiss the petition or deny the motion, making appropriate findings of fact and conclusions.

(d) Counsel for the petitioner or movant shall serve a copy of the termination of parental rights order upon the guardian ad litem for the juvenile, if any, and upon the juvenile if the juvenile is 12 years of age or older.

(e) The court may tax the cost of the proceeding to any party. (1977, c. 879, s. 8; 1981 (Reg. Sess., 1982), c. 1131, s. 1; 1983, c. 581, s. 3; c. 607, s. 3; 1998-202, s. 6; 1999-456, s. 60; 2000-183, s. 10; 2001-208, s. 23; 2001-487, s. 101; 2005-398, s. 17; 2011-295, s. 16.)

§ 7B-1111. Grounds for terminating parental rights.

(a) The court may terminate the parental rights upon a finding of one or more of the following:

- (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.
- (2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile. Provided, however, that no parental rights shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.

- (3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
- (4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.
- (5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights, done any of the following:
 - a. Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services; provided, the petitioner or movant shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and the Department's certified reply shall be submitted to and considered by the court.
 - b. Legitimated the juvenile pursuant to provisions of G.S. 49-10, G.S. 49-12.1, or filed a petition for this specific purpose.
 - c. Legitimated the juvenile by marriage to the mother of the juvenile.
 - d. Provided substantial financial support or consistent care with respect to the juvenile and mother.
 - e. Established paternity through G.S. 49-14, 110-132, 130A-101, 130A-118, or other judicial proceeding.
- (6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other cause or condition that renders the parent unable or unavailable to parent the juvenile and the parent lacks an appropriate alternative child care arrangement.
- (7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion, or the parent has voluntarily abandoned an infant pursuant to G.S. 7B-500 for at least 60 consecutive days immediately preceding the filing of the petition or motion.
- (8) The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; has committed a felony assault that results in serious bodily injury to the child, another child of the parent, or other child residing in the home; or has committed murder or voluntary manslaughter of the other parent of the child. The petitioner has the burden of proving any of these offenses in the

termination of parental rights hearing by (i) proving the elements of the offense or (ii) offering proof that a court of competent jurisdiction has convicted the parent of the offense, whether or not the conviction was by way of a jury verdict or any kind of plea. If the parent has committed the murder or voluntary manslaughter of the other parent of the child, the court shall consider whether the murder or voluntary manslaughter was committed in self-defense or in the defense of others, or whether there was substantial evidence of other justification.

- (9) The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home.
- (10) Where the juvenile has been relinquished to a county department of social services or a licensed child-placing agency for the purpose of adoption or placed with a prospective adoptive parent for adoption; the consent or relinquishment to adoption by the parent has become irrevocable except upon a showing of fraud, duress, or other circumstance as set forth in G.S. 48-3-609 or G.S. 48-3-707; termination of parental rights is a condition precedent to adoption in the jurisdiction where the adoption proceeding is to be filed; and the parent does not contest the termination of parental rights.
- (11) The parent has been convicted of a sexually related offense under Chapter 14 of the General Statutes that resulted in the conception of the juvenile.

(b) The burden in such proceedings shall be upon the petitioner or movant to prove the facts justifying such termination by clear and convincing evidence. (1977, c. 879, s. 8; 1979, c. 669, s. 2; 1979, 2nd Sess., c. 1088, s. 2; c. 1206, s. 2; 1983, c. 89, s. 2; c. 512; 1985, c. 758, ss. 2, 3; c. 784; 1991 (Reg. Sess., 1992), c. 941, s. 1; 1997-390, ss. 1, 2; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1998-229, ss. 11, 28; 1999-456, s. 60; 2000-183, s. 11; 2001-208, s. 6; 2001-291, s. 3; 2001-487, s. 101; 2003-140, s. 3; 2005-146, s. 1; 2007-151, s. 1; 2007-484, s. 26(a); 2012-40, s. 1; 2013-129, s. 35.)

§ 7B-1112. Effects of termination order.

An order terminating the parental rights completely and permanently terminates all rights and obligations of the parent to the juvenile and of the juvenile to the parent arising from the parental relationship, except that the juvenile's right of inheritance from the juvenile's parent shall not terminate until a final order of adoption is issued. The parent is not thereafter entitled to notice of proceedings to adopt the juvenile and may not object thereto or otherwise participate therein:

- (1) If the juvenile had been placed in the custody of or released for adoption by one parent to a county department of social services or licensed child-placing agency and is in the custody of the agency at the time of the filing of the petition or motion, including a petition or motion filed pursuant to G.S. 7B-1103(a)(6), that agency shall, upon entry of the order terminating parental rights, acquire all of the rights for placement of the juvenile, except as otherwise provided in G.S. 7B-908(d), as the agency would have acquired had the parent whose rights are terminated released the juvenile to that agency pursuant to the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes, including the right to consent to the adoption of the juvenile.
- (2) Except as provided in subdivision (1) above, upon entering an order terminating the parental rights of one or both parents, the court may place the

juvenile in the custody of the petitioner or movant, or some other suitable person, or in the custody of the department of social services or licensed child-placing agency, as may appear to be in the best interests of the juvenile. (1977, c. 879, s. 8; 1983, c. 870, s. 3; 1995, c. 457, s. 5; 1998-202, s. 6; 1998-229, s. 11; 1999-456, s. 60; 2000-183, s. 12; 2011-295, s. 17; 2012-194, s. 2.)

§ 7B-1112.1. Selection of adoptive parents.

The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. In selecting the adoptive parents, any current placement provider wanting to adopt the child shall be considered. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection process. If the guardian ad litem requests information about the selection process, the county shall provide the information within five business days. The county department of social services shall notify the guardian ad litem and the foster parents of the selection of prospective adoptive parents within 10 days of the selection and before the filing of the adoption petition. If the guardian ad litem disagrees with the selection of adoptive parents or the foster parents want to adopt the juvenile and were not selected as adoptive parents, the guardian ad litem or foster parents shall file a motion within 10 days of the department's notification and schedule the case for hearing on the next juvenile calendar. The department shall not change the juvenile's placement to the prospective adoptive parents unless the time period for filing a motion has expired and no motion has been filed. The Department shall provide a copy of a motion for judicial review of adoption selection to the foster parents not selected. Nothing in this section shall be construed to make the foster parents a party to the proceeding solely based on receiving notification and the right to be heard by filing a motion. In hearing any motion, the court shall consider the recommendations of the agency and the guardian ad litem and other facts related to the selection of adoptive parents. The court shall then determine whether the proposed adoptive placement is in the juvenile's best interests. (2011-295, s. 18; 2013-129, s. 36.)

§ 7B-1113: Repealed by Session Laws 2005-398, s. 18, effective October 1, 2005.

§ 7B-1114. Reinstatement of parental rights.

(a) A juvenile whose parent's rights have been terminated, the guardian ad litem attorney, or a county department of social services with custody of the juvenile may file a motion to reinstate the parent's rights if all of the following conditions are satisfied:

- (1) The juvenile is at least 12 years of age or, if the juvenile is younger than 12, the motion alleges extraordinary circumstances requiring consideration of the motion.
- (2) The juvenile does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time.
- (3) The order terminating parental rights was entered at least three years before the filing of the motion, unless the court has found or the juvenile's attorney advocate and the county department of social services with custody of the juvenile stipulate that the juvenile's permanent plan is no longer adoption.

(b) If a motion could be filed under subsection (a) of this section and the parent whose rights have been terminated contacts the county department of social services with custody of the

juvenile or the juvenile's guardian ad litem regarding reinstatement of the parent's rights, the department or the guardian ad litem shall notify the juvenile that the juvenile has a right to file a motion for reinstatement of parental rights.

(c) If a motion to reinstate parental rights is filed and the juvenile does not have a guardian ad litem appointed pursuant to G.S. 7B-601, the court shall appoint a guardian ad litem to represent the best interests of the juvenile. The appointment, duties, and payment of the guardian ad litem and the guardian ad litem attorney shall be the same as in G.S. 7B-601 and G.S. 7B-603.

(d) The party filing a motion to reinstate parental rights shall serve the motion on each of the following who is not the movant:

- (1) The juvenile.
- (2) The juvenile's guardian ad litem or the guardian ad litem attorney.
- (3) The county department of social services with custody of the juvenile.
- (4) The former parent whose rights the motion seeks to have reinstated.

A former parent who is served under this subsection is not a party to the proceeding and is not entitled to appointed counsel but may retain counsel at the former parent's own expense.

(e) The movant shall ask the clerk to calendar the case for a preliminary hearing on the motion for reinstatement of parental rights within 60 days of the filing of the motion at a session of court scheduled for the hearing of juvenile matters. The movant shall give at least 15 days' notice of the hearing and state its purpose to the persons listed in subdivisions (d)(1) through (d)(4) of this section. In addition, the movant shall send a notice of the hearing to the juvenile's placement provider. Nothing in this section shall be construed to make the former parent or the juvenile's placement provider a party to the proceeding based solely on being served with the motion or receiving notice and the right to be heard.

(f) At least seven days before the preliminary hearing, the department of social services and the juvenile's guardian ad litem shall provide to the court, the other parties, and the former parent reports that address the factors specified in subsection (g) of this section.

(g) At the preliminary hearing and any subsequent hearing on the motion, the court shall consider information from the county department of social services with custody of the juvenile, the juvenile, the juvenile's guardian ad litem, the juvenile's former parent whose parental rights are the subject of the motion, the juvenile's placement provider, and any other person or agency that may aid the court in its review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and whether reinstatement is in the juvenile's best interest. The court shall consider the following criteria and make written findings regarding the following that are relevant:

- (1) What efforts were made to achieve adoption or a permanent guardianship.
- (2) Whether the parent whose rights the motion seeks to have reinstated has remedied the conditions that led to the juvenile's removal and termination of the parent's rights.
- (3) Whether the juvenile would receive proper care and supervision in a safe home if placed with the parent.
- (4) The age and maturity of the child and the ability of the child to express the child's preference.
- (5) The parent's willingness to resume contact with the juvenile and to have parental rights reinstated.
- (6) The juvenile's willingness to resume contact with the parent and to have

parental rights reinstated.

(7) Services that would be needed by the juvenile and the parent if the parent's rights were reinstated.

(8) Any other criteria the court deems necessary.

(h) At the conclusion of the preliminary hearing, the court shall either dismiss the motion or order that the juvenile's permanent plan become reinstatement of parental rights. If the court does not dismiss the motion, the court shall conduct interim hearings at least every six months until the motion is granted or dismissed. Interim hearings may be combined with posttermination of parental rights review hearings required by G.S. 7B-908. At each interim hearing, the court shall assess whether the plan of reinstatement of parental rights continues to be in the juvenile's best interest and whether the department of social services has made reasonable efforts to achieve the permanent plan.

(i) At any hearing under this section, after making proper findings of fact and conclusions of law, the court may do one of the following:

(1) Enter an order for visitation in accordance with G.S. 7B-905.1.

(2) Order that the juvenile be placed in the former parent's home and supervised by the department of social services either directly or, when the former parent lives in a different county, through coordination with the county department of social services in that county, or by other personnel as may be available to the court, subject to conditions applicable to the former parent as the court may specify. Any order authorizing placement with the former parent shall specify that the juvenile's placement and care remain the responsibility of the county department of social services with custody of the juvenile and that the department is to provide or arrange for the placement of the juvenile.

(j) The court shall either dismiss or grant a motion for reinstatement of parental rights within 12 months from the date the motion was filed, unless the court makes written findings why a final determination cannot be made within that time. If the court makes such findings, the court shall specify the time frame in which a final order shall be entered.

(k) An order reinstating parental rights restores all rights, powers, privileges, immunities, duties, and obligations of the parent as to the juvenile, including those relating to custody, control, and support of the juvenile. If a parent's rights are reinstated, the court shall be relieved of the duty to conduct periodic reviews.

(l) An order shall be entered no later than 30 days following the completion of any hearing pursuant to this section. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(m) The granting of a motion for reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights.

(n) A parent whose rights are reinstated pursuant to this section is not liable for child support or the costs of any services provided to the juvenile for the period from the date of the order terminating the parent's rights to the date of the order reinstating the parent's rights. (2011-295, s. 18; 2013-129, s. 37.)

Article 12.
Guardian ad Litem Program.

§ 7B-1200. Office of Guardian ad Litem Services established.

There is established within the Administrative Office of the Courts an Office of Guardian ad Litem Services to provide services in accordance with G.S. 7B-601 to abused, neglected, or dependent juveniles involved in judicial proceedings and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Each local program shall consist of volunteer guardians ad litem, at least one program attorney, a program coordinator who is a paid State employee, and any clerical staff as the Administrative Office of the Courts in consultation with the local program deems necessary. The Administrative Office of the Courts shall adopt rules and regulations necessary and appropriate for the administration of the program. (1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 32; c. 1090, s. 7; 1998-202, s. 6.)

§ 7B-1201. Implementation and administration.

(a) Local Programs. – The Administrative Office of the Courts shall, in cooperation with each chief district court judge and other personnel in the district, implement and administer the program mandated by this Article. Where a local program has not yet been established in accordance with this Article, the district court district shall operate a guardian ad litem program approved by the Administrative Office of the Courts.

(b) Advisory Committee Established. – The Director of the Administrative Office of the Courts shall appoint a Guardian ad Litem Advisory Committee consisting of at least five members to advise the Office of Guardian ad Litem Services in matters related to this program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally. (1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 33; 1998-202, s. 6.)

§ 7B-1202. Conflict of interest or impracticality of implementation.

If a conflict of interest prohibits a local program from providing representation to an abused, neglected, or dependent juvenile, the court may appoint any member of the district bar to represent the juvenile. If the Administrative Office of the Courts determines that within a particular district court district the implementation of a local program is impractical, or that an alternative plan meets the conditions of G.S. 7B-1203, the Administrative Office of the Courts shall waive the establishment of the program within the district. (1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 34; c. 1090, s. 8; 1998-202, s. 6.)

§ 7B-1203. Alternative plans.

A district court district shall be granted a waiver from the implementation of a local program if the Administrative Office of the Courts determines that the following conditions are met:

- (1) An alternative plan has been developed to provide adequate guardian ad litem services for every juvenile consistent with the duties stated in G.S. 7B-601; and
- (2) The proposed alternative plan will require no greater proportion of State funds than the district court district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as the juvenile population, number of substantiated abuse and neglect reports, number of abuse and neglect

petitions, number of abused and neglected juveniles in care to be reviewed pursuant to G.S. 7B-906.1, nature of the district's district court caseload, and number of petitions to terminate parental rights.

When an alternative plan is approved pursuant to this section, the Administrative Office of the Courts shall retain authority to monitor implementation of the said plan in order to assure compliance with the requirements of this Article and G.S. 7B-601. In any district court district where the Administrative Office of the Courts determines that implementation of an alternative plan is not in compliance with the requirements of this section, the Administrative Office of the Courts may implement and administer a program authorized by this Article. (1983, c. 761, s. 160; 1987 (Reg. Sess., 1988), c. 1037, s. 35; 1998-202, s. 6; 2013-129, s. 38.)

§ 7B-1204. Civil liability of volunteers.

Any volunteer participating in a judicial proceeding pursuant to the program authorized by this Article shall not be civilly liable for acts or omissions committed in connection with the proceeding if the volunteer acted in good faith and was not guilty of gross negligence. (1983, c. 761, s. 160; 1998-202, s. 6.)

Article 13. Prevention of Abuse and Neglect.

§ 7B-1300. Purpose.

It is the expressed intent of this Article to make the prevention of abuse and neglect, as defined in G.S. 7B-101, a priority of this State and to establish the Children's Trust Fund as a means to that end. (1983, c. 894, s. 1; 1998-202, s. 6.)

§ 7B-1301. Program on Prevention of Abuse and Neglect.

(a) The Department of Health and Human Services, through the Division of Social Services, shall implement the Program on Prevention of Abuse and Neglect. The Division of Social Services shall provide the staff and support services for implementing this program.

(b) In order to carry out the purposes of this Article:

- (1) Repealed by Session Laws 2009-451, s. 10.43(b), effective July 1, 2009.
- (2) The Division of Social Services shall review applications and contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to operate community-based educational and service programs designed to prevent the occurrence of abuse and neglect. Every contract entered into by the Division of Social Services shall contain provisions that at least twenty-five percent (25%) of the total funding required for a program be provided by the administering organization in the form of in-kind or other services and that a mechanism for evaluation of services provided under the contract be included in the services to be performed. In addition, every proposal to the Division of Social Services for funding under this Article shall include assurances that the proposal has been forwarded to the local department of social services for comment so that the Division of Social Services may consider coordination and duplication of effort on the local level.
- (3) The Division of Social Services shall develop appropriate guidelines and

criteria for awarding contracts under this Article. These criteria shall include, but are not limited to: documentation of need within the proposed geographical impact area; diversity of geographical areas of programs funded under this Article; demonstrated effectiveness of the proposed strategy or program for preventing abuse and neglect; reasonableness of implementation plan for achieving stated objectives; utilization of community resources including volunteers; provision for an evaluation component that will provide outcome data; plan for dissemination of the program for implementation in other communities; and potential for future funding from private sources.

- (4) The Division of Social Services shall develop guidelines for regular monitoring of contracts awarded under this Article in order to maximize the investments in prevention programs by the Children's Trust Fund and to establish appropriate accountability measures for administration of contracts.
- (5) The Division of Social Services shall develop a State plan for the prevention of abuse and neglect for submission to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(c) To assist in implementing this Article, the Division of Social Services may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All monies received by the Division of Social Services from contributions, grants, or gifts and not through appropriation by the General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds shall be on the authorization of the Department of Health and Human Services. In order to maintain an effective expenditure and revenue control, the funds are subject in all respects to State law and regulations, but no appropriation is required to permit expenditure of the funds.

(d) Programs contracted for under this Article are intended to prevent abuse and neglect of juveniles. Abuse and neglect prevention programs are defined to be those programs and services which impact on juveniles and families before any substantiated incident of abuse or neglect has occurred. These programs may include, but are not limited to:

- (1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and
- (2) Community-based programs relating to crisis care, aid to parents, and support groups for parents and their children experiencing stress within the family unit.

(e) No more than twenty percent (20%) of each year's total awards may be utilized for funding State-level programs to coordinate community-based programs. (1983, c. 894, s. 1; 1993 (Reg. Sess., 1994), c. 677, s. 1; 1998-202, s. 6; 2009-451, s. 10.43(b).)

§ 7B-1302. Children's Trust Fund.

(a) There is established a fund to be known as the "Children's Trust Fund," in the Department of Health and Human Services, Division of Social Services, which shall be funded by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the Division of Social Services to fund abuse and neglect prevention programs so authorized by this Article.

(b) The Department of Health and Human Services shall report annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative Commission on Governmental Operations. (1983, c. 894, s. 1; 1998-202, s. 6; 1999-277, s. 5; 2004-124, s. 7.33(b); 2009-451, s.

Article 14.
North Carolina Child Fatality Prevention System.

§ 7B-1400. Declaration of public policy.

The General Assembly finds that it is the public policy of this State to prevent the abuse, neglect, and death of juveniles. The General Assembly further finds that the prevention of the abuse, neglect, and death of juveniles is a community responsibility; that professionals from disparate disciplines have responsibilities for children or juveniles and have expertise that can promote their safety and well-being; and that multidisciplinary reviews of the abuse, neglect, and death of juveniles can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a statewide multidisciplinary, multiagency child fatality prevention system consisting of the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-1406. The purpose of the system is to assess the records of selected cases in which children are being served by child protective services and the records of all deaths of children in North Carolina from birth to age 18 in order to (i) develop a communitywide approach to the problem of child abuse and neglect, (ii) understand the causes of childhood deaths, (iii) identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to prevent future child abuse, neglect, or death, and (iv) make and implement recommendations for changes to laws, rules, and policies that will support the safe and healthy development of our children and prevent future child abuse, neglect, and death. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1401. Definitions.

The following definitions apply in this Article:

- (1) Additional Child Fatality. – Any death of a child that did not result from suspected abuse or neglect and about which no report of abuse or neglect had been made to the county department of social services within the previous 12 months.
- (2) Local Team. – A Community Child Protection Team or a Child Fatality Prevention Team.
- (3) State Team. – The North Carolina Child Fatality Prevention Team.
- (4) Task Force. – The North Carolina Child Fatality Task Force.
- (5) Team Coordinator. – The Child Fatality Prevention Team Coordinator. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1402. Task Force – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments,

divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The chair of the Council for Women and Youth Involvement;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Health and Human Services;
- (11) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
- (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
- (18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;
- (19) One public member, appointed by the Speaker of the House of Representatives;
- (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;

- (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
- (22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;
- (23) One public member, appointed by the President Pro Tempore of the Senate; and
- (24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term. (1991, c. 689, s. 233(a); 1991 (Reg. Sess., 1992), c. 900, s. 169(b); 1993, c. 321, s. 285(a); 1993 (Reg. Sess., 1994), c. 769, s. 27.8(d); 1996, 2nd Ex. Sess., c. 17, s. 3.2; 1997-443, s. 11A.98; 1997-456, s. 27; 1998-202, s. 6; 1998-212, s. 12.44(a), (b); 2004-186, s. 5.1.)

§ 7B-1403. Task Force – duties.

The Task Force shall:

- (1) Undertake a statistical study of the incidences and causes of child deaths in this State and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;
- (2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing Local Teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;
- (3) Receive and consider reports from the State Team; and
- (4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate. (1991, c. 689, s. 233(a); 1996, 2nd Ex. Sess., c. 17, s. 3.2; 1998-202, s. 6; 1998-212, s. 12.44(a), (c).)

§ 7B-1404. State Team – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Prevention Team within the Department of Health and Human Services for budgetary purposes only.

(b) The State Team shall be composed of the following 11 members of whom nine members are ex officio and two are appointed:

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of Health and Human Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services;
- (8) The Director of the Administrative Office of the Courts;
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task Force;
- (10) A public member, appointed by the Governor; and
- (11) The Team Coordinator.

The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team.

(c) All members of the State Team are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1997-443, s. 11A.99; 1997-456, s. 27; 1998-202, s. 6.)

§ 7B-1405. State Team – duties.

The State Team shall:

- (1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile pursuant to G.S. 7B-301 at any time before death;
- (2) Report to the Task Force during the existence of the Task Force, in the format and at the time required by the Task Force, on the State Team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children;
- (3) Upon request of a Local Team, provide technical assistance to the Team;
- (4) Periodically assess the operations of the multidisciplinary child fatality prevention system and make recommendations for changes as needed;
- (5) Work with the Team Coordinator to develop guidelines for selecting child deaths to receive detailed, multidisciplinary death reviews by Local Teams that review cases of additional child fatalities; and
- (6) Receive reports of findings and recommendations from Local Teams that review cases of additional child fatalities and work with the Team Coordinator to implement recommendations. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1997-443, s. 11A.99; 1997-456, s. 27; 1998-202, s. 6.)

§ 7B-1406. Community Child Protection Teams; Child Fatality Prevention Teams; creation and duties.

(a) Community Child Protection Teams are established in every county of the State. Each Community Child Protection Team shall:

- (1) Review, in accordance with the procedures established by the director of the

county department of social services under G.S. 7B-1409:

- a. Selected active cases in which children are being served by child protective services; and
 - b. Cases in which a child died as a result of suspected abuse or neglect, and
 1. A report of abuse or neglect has been made about the child or the child's family to the county department of social services within the previous 12 months, or
 2. The child or the child's family was a recipient of child protective services within the previous 12 months.
- (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

In addition, each Community Child Protection Team may review the records of all additional child fatalities and report findings in connection with these reviews to the Team Coordinator.

(b) Any Community Child Protection Team that determines it will not review additional child fatalities shall notify the Team Coordinator. In accordance with the plan established under G.S. 7B-1408(1), a separate Child Fatality Prevention Team shall be established in that county to conduct these reviews. Each Child Fatality Prevention Team shall:

- (1) Review the records of all cases of additional child fatalities.
 - (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.
 - (3) Report findings in connection with these reviews to the Team Coordinator.
- (c) All reports to the Team Coordinator under this section shall include:
- (1) A listing of the system problems identified through the review process and recommendations for preventive actions;
 - (2) Any changes that resulted from the recommendations made by the Local Team;
 - (3) Information about each death reviewed; and
 - (4) Any additional information requested by the Team Coordinator. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1407. Local Teams; composition.

(a) Each Local Team shall consist of representatives of public and nonpublic agencies in the community that provide services to children and their families and other individuals who represent the community. No single team shall encompass a geographic or governmental area larger than one county.

- (b) Each Local Team shall consist of the following persons:
- (1) The director of the county department of social services and a member of the director's staff;
 - (2) A local law enforcement officer, appointed by the board of county commissioners;
 - (3) An attorney from the district attorney's office, appointed by the district attorney;
 - (4) The executive director of the local community action agency, as defined by the Department of Health and Human Services, or the executive director's

designee;

- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and
- (10) A local health care provider, appointed by the local board of health.

(c) In addition, a Local Team that reviews the records of additional child fatalities shall include the following five additional members:

- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
- (2) A district court judge, appointed by the chief district court judge in that district;
- (3) A county medical examiner, appointed by the Chief Medical Examiner;
- (4) A representative of a local child care facility or Head Start program, appointed by the director of the county department of social services; and
- (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.

(d) The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority.

(e) Each Local Team shall elect a member to serve as chair at the Team's pleasure.

(f) Each Local Team shall meet at least four times each year.

(g) The director of the local department of social services shall call the first meeting of the Community Child Protection Team. The director of the local department of health, upon consultation with the Team Coordinator, shall call the first meeting of the Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule the time and place of meetings, in consultation with these directors, and shall prepare the agenda. The chair shall schedule Team meetings no less often than once per quarter and often enough to allow adequate review of the cases selected for review. Within three months of election, the chair shall participate in the appropriate training developed under this Article. (1993, c. 321, s. 285(a); 1997-443, s. 11A.100; 1997-456, s. 27; 1997-506, s. 52; 1998-202, s. 6.)

§ 7B-1408. Child Fatality Prevention Team Coordinator; duties.

The Child Fatality Prevention Team Coordinator shall serve as liaison between the State Team and the Local Teams that review records of additional child fatalities and shall provide technical assistance to these Local Teams. The Team Coordinator shall:

- (1) Develop a plan to establish Local Teams that review the records of additional child fatalities in each county.
- (2) Develop model operating procedures for these Local Teams that address when public meetings should be held, what items should be addressed in public meetings, what information may be released in written reports, and any other

- information the Team Coordinator considers necessary.
- (3) Provide structured training for these Local Teams at the time of their establishment, and continuing technical assistance thereafter.
 - (4) Provide statistical information on all child deaths occurring in each county to the appropriate Local Team, and assure that all child deaths in a county are assessed through the multidisciplinary system.
 - (5) Monitor the work of these Local Teams.
 - (6) Receive reports of findings, and other reports that the Team Coordinator may require, from these Local Teams.
 - (7) Report the aggregated findings of these Local Teams to each Local Team that reviews the records of additional child fatalities and to the State Team.
 - (8) Evaluate the impact of local efforts to identify problems and make changes. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1409. Community Child Protection Teams; duties of the director of the county department of social services.

In addition to any other duties as a member of the Community Child Protection Team, and in connection with the reviews under G.S. 7B-1406(a)(1), the director of the county department of social services shall:

- (1) Assure the development of written operating procedures in connection with these reviews, including frequency of meetings, confidentiality policies, training of members, and duties and responsibilities of members;
- (2) Assure that the Team defines the categories of cases that are subject to its review;
- (3) Determine and initiate the cases for review;
- (4) Bring for review any case requested by a Team member;
- (5) Provide staff support for these reviews;
- (6) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law; and
- (7) Report quarterly to the county board of social services, or as required by the board, on the activities of the Team. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1410. Local Teams; duties of the director of the local department of health.

In addition to any other duties as a member of the Local Team and in connection with reviews of additional child fatalities, the director of the local department of health shall:

- (1) Distribute copies of the written procedures developed by the Team Coordinator under G.S. 7B-1408 to the administrators of all agencies represented on the Local Team and to all members of the Local Team;
- (2) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Local Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law;
- (3) Provide staff support for these reviews; and
- (4) Report quarterly to the local board of health, or as required by the board, on the activities of the Local Team. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1411. Community Child Protection Teams; responsibility for training of team members.

The Division of Social Services, Department of Health and Human Services, shall develop and make available, on an ongoing basis, for the members of Local Teams that review active cases in which children are being served by child protective services, training materials that address the role and function of the Local Team, confidentiality requirements, an overview of child protective services law and policy, and Team record keeping. (1993, c. 321, s. 285(a); 1997-443, s. 11A.118(a); 1998-202, s. 6.)

§ 7B-1412. Task Force – reports.

The Task Force shall report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the General Assembly. The report shall contain at least a summary of the conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, or policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State. (1991, c. 689, s. 233(a); 1991 (Reg. Sess., 1992), c. 900, s. 169(a); 1993 (Reg. Sess., 1994), c. 769, s. 27.8(a); 1996, 2nd Ex. Sess., c. 17, ss. 3.1, 3.2; 1998-202, s. 6; 1998-212, s. 12.44(a), (d).)

§ 7B-1413. Access to records.

(a) The State Team, the Local Teams, and the Task Force during its existence, shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this Article, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. The State Team, the Task Force, and the Local Teams shall not, as part of the reviews authorized under this Article, contact, question, or interview the child, the parent of the child, or any other family member of the child whose record is being reviewed. Any member of a Local Team may share, only in an official meeting of that Local Team, any information available to that member that the Local Team needs to carry out its duties.

(b) Meetings of the State Team and the Local Teams are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local Teams may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session shall be sealed from public inspection.

(c) All otherwise confidential information and records acquired by the State Team, the Local Teams, and the Task Force during its existence, in the exercise of their duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential information and records created by a Local Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the Local Team. No member of the State Team, a Local Team, nor any person who attends a meeting of the State Team or a Local Team, may testify in any proceeding

about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(d) Each member of a Local Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

(e) Cases receiving child protective services at the time of review by a Local Team shall have an entry in the child's protective services record to indicate that the case was received by that Team. Additional entry into the record shall be at the discretion of the director of the county department of social services.

(f) The Social Services Commission shall adopt rules to implement this section in connection with reviews conducted by Community Child Protection Teams. The Commission for Public Health shall adopt rules to implement this section in connection with Local Teams that review additional child fatalities. In particular, these rules shall allow information generated by an executive session of a Local Team to be accessible for administrative or research purposes only. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6; 2007-182, s. 1.3.)

§ 7B-1414. Administration; funding.

(a) To the extent of funds available, the chairs of the Task Force and State Team may hire staff or consultants to assist the Task Force and the State Team in completing their duties.

(b) Members, staff, and consultants of the Task Force or State Team shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as the case may be, paid from funds appropriated to implement this Article and within the limits of those funds.

(c) With the approval of the Legislative Services Commission, legislative staff and space in the Legislative Building and the Legislative Office Building may be made available to the Task Force. (1991, c. 689, s. 233(a); 1998-202, s. 6.)

SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.

... [omitted]

SUBCHAPTER III. JUVENILE RECORDS.

Article 29.

Records and Social Reports of Cases of Abuse, Neglect, and Dependency.

§ 7B-2900. Definitions.

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter. (1998-202, s. 6.)

§ 7B-2901. Confidentiality of records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the

court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court.

The following persons may examine the juvenile's record maintained pursuant to this subsection and obtain copies of written parts of the record without an order of the court:

- (1) The person named in the petition as the juvenile;
- (2) The guardian ad litem;
- (3) The county department of social services; and
- (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian.

(b) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by the Department or under placement by the court, which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; interviews with the juvenile's family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile. The records maintained pursuant to this subsection may be examined only in the following circumstances:

- (1) The juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated, may examine the records.
- (2) A district or superior court judge of this State presiding over a civil matter in which the department is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department may surrender the requested records to the court, for in camera review, if surrender is necessary to make the required determinations.
- (3) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review before releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (1) of this subsection.
- (4) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700.

(c) In the case of a child victim, the court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim.

(d) The court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the

unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem. (1979, c. 815, s. 1; 1987, c. 297; 1994, Ex. Sess., c. 7, s. 1; 1995, c. 462, s. 4; c. 509, s. 5; 1997-459, s. 2; 1998-202, s. 6; 2001-208, s. 10; 2001-487, s. 101; 2009-311, s. 18.)

§ 7B-2902. Disclosure in child fatality or near fatality cases.

(a) The following definitions apply in this section:

- (1) Child fatality. – The death of a child from suspected abuse, neglect, or maltreatment.
- (2) Findings and information. – A written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
 - a. The dates, outcomes, and results of any actions taken or services rendered.
 - b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
 - c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.
- (3) Near fatality. – A case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.
- (4) Public agency. – Any agency of State government or its subdivisions as defined in G.S. 132-1(a).

(b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

- (1) A person is criminally charged with having caused the child fatality or near fatality; or
- (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

(d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

- (1) Is not authorized by subsections (a) and (b) of this section;
- (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
- (3) Is likely to jeopardize the State's ability to prosecute the defendant;
- (4) Is likely to jeopardize the defendant's right to a fair trial;
- (5) Is likely to undermine an ongoing or future criminal investigation; or
- (6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

(f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 7B-1413 respectively. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(g) Any public agency or its employees acting in good faith in disclosing or declining to disclose information pursuant to this section shall be immune from any criminal or civil liability that might otherwise be incurred or imposed for such action.

(h) Nothing herein shall be deemed to narrow or limit the definition of "public records" as set forth in G.S. 132-1(a). (1997-459, s. 1; 1998-202, s. 6.)

Article 30.

Juvenile Records and Social Reports of Delinquency and Undisciplined Cases.

§ 7B-3000. Juvenile court records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record. The record shall include the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders, or papers filed in the proceeding.

(b) All juvenile records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. Except as provided in subsection (c) of this section, the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

- (1) The juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Court counselors; and
- (5) Probation officers in the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety, as provided in subsection (e1) of this section and in G.S. 15A-1341(e).

Except as provided in subsection (c) of this section, the prosecutor may, in the prosecutor's discretion, share information obtained from a juvenile's record with magistrates and law enforcement officers sworn in this State, but may not allow a magistrate or law enforcement officer to photocopy any part of the record.

(c) The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT", or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.

(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording of a hearing shall be transcribed only when notice of appeal has been timely given and shall be copied electronically or mechanically, only by order of the court. After the time for appeal has expired with no appeal having been filed, the court may enter a written order directing the clerk to destroy the recording of the hearing.

(e) Notwithstanding any other provision of law, if the defendant in a criminal proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the time of the offense, information obtained pursuant to subsection (b) of this section regarding the juvenile's record of an adjudication of delinquency for an offense that would be a Class A1 misdemeanor or a felony if committed by an adult, where the adjudication occurred after the defendant reached 13 years of age, may be used by law enforcement, the magistrate, the courts, and the prosecutor for pretrial release, plea negotiating decisions, and plea acceptance decisions. Information obtained regarding any juvenile record shall remain confidential and shall not be placed in any public record.

(e1) When a person is subject to probation supervision under Article 82 of Chapter 15A of the General Statutes, for an offense that was committed while the person was less than 25 years of age, that person's juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult may be examined without a court order by the probation officer in the Section of Community Corrections of the Division of Adult Correction assigned to supervise the person for the purpose of assessing risk related to supervision.

Each judicial district manager in the Section of Community Corrections of the Division of Adult Correction shall designate a staff person in each county to obtain from the clerk, at the request of the probation officer assigned to supervise the person, any juvenile records authorized to be examined under this subsection. The judicial district manager shall inform the clerk in each county, in writing, of the designated staff person in the county. The designated staff person shall transfer any juvenile records obtained to the probation officer assigned to supervise the person.

Any copies of juvenile records obtained pursuant to this subsection shall continue to be withheld from public inspection and shall not become part of the public record in any criminal proceeding. Any copies of juvenile records shall be destroyed within 30 days of termination of the person's period of probation supervision. Any other information in the Section of Community Corrections of the Division of Adult Correction records, relating to a person's juvenile record, shall remain confidential and shall be maintained or destroyed pursuant to guidelines established by the Department of Natural and Cultural Resources for the maintenance and destruction of Section of Community Corrections of the Division of Adult Correction records.

(f) The juvenile's record of an adjudication of delinquency for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), 15A-1340.16(d), or 15A-2000(e).

The record may be so used only by order of the court in the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera hearing to determine whether the record in question is admissible.

(g) Except as provided in subsection (d) of this section, a juvenile's record shall be destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Administrative Office of the Courts. (1979, c. 815, s. 1; 1987, c. 297; 1994, Ex. Sess., c. 7, s. 1; 1995, c. 462, s. 4; c. 509, s. 5; 1997-459, s. 2; 1998-202, s. 6; 2000-137, s. 3; 2002-159, s. 26; 2009-372, s. 1; 2009-545, s. 2; 2011-145, s. 19.1(h), (k); 2011-277, s. 1; 2012-83, s. 17; 2015-241, s. 14.30(s).)

§ 7B-3001. Other records relating to juveniles.

(a) The chief court counselor shall maintain a record of all cases of juveniles under supervision of juvenile court counselors, to be known as the juvenile court counselor's record. The juvenile court counselor's record shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; or other information the court finds should be protected from public inspection in the best interests of the juvenile.

(b) Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court:

- (1) The juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor;
- (4) Juvenile court counselors; and
- (5) Law enforcement officers sworn in this State.

Otherwise, the records and files may be examined or copied only by order of the court.

(c) All records and files maintained by the Division pursuant to this Chapter shall be withheld from public inspection. The following persons may examine and obtain copies of the Division records and files concerning a juvenile without an order of the court:

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Juvenile court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Division.

(d) When the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety is authorized to access a juvenile record pursuant to G.S. 7B-3000(e1), the Division may, at the request of the Section of Community Corrections of the Division of Adult Correction, notify the Section of Community Corrections of the Division of Adult Correction that there is a juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult for a person subject to probation supervision under Article 82 of Chapter 15A of the General Statutes and may notify the Section of Community Corrections of the Division of Adult Correction of the county or counties where the

adjudication of delinquency occurred. (1979, c. 815, s. 1; 1987, c. 297; 1994, Ex. Sess., c. 7, s. 1; 1995, c. 462, s. 4; c. 509, s. 5; 1997-459, s. 2; 1998-202, s. 6; 2000-137, s. 3; 2001-490, s. 2.32; 2009-372, s. 2; 2009-545, s. 3; 2011-145, s. 19.1(h), (k), (l).)

Article 31.

Disclosure of Juvenile Information.

§ 7B-3100. Disclosure of information about juveniles.

(a) The Division, after consultation with the Conference of Chief District Court Judges, shall adopt rules designating certain local agencies that are authorized to share information concerning juveniles in accordance with the provisions of this section. Agencies so designated shall share with one another, upon request and to the extent permitted by federal law and regulations, information that is in their possession that is relevant to any assessment of a report of child abuse, neglect, or dependency or the provision or arrangement of protective services in a child abuse, neglect, or dependency case by a local department of social services pursuant to the authority granted under Chapter 7B of the General Statutes or to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the protective services case is closed by the local department of social services, or if a petition is filed when the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that may be designated as "agencies authorized to share information" include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Division of Juvenile Justice of the Department of Public Safety, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts, and, pursuant to the provisions of G.S. 7B-3000(e1), the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety. Any information shared among agencies pursuant to this section shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents and except as provided in G.S. 7B-3102. (1979, c. 815, s. 1; 1987, c. 297; 1994, Ex. Sess., c. 7, s. 1; 1995, c. 462, s. 4; c. 509, s. 5; 1997-459, s. 2; 1998-202, s. 6; 2000-137, s. 3; 2006-205, s. 2; 2007-458, s. 4; 2009-372, s. 3; 2011-145, s. 19.1(h), (k), (l).)

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SUBCHAPTER IV. PARENTAL AUTHORITY; EMANCIPATION.

Article 34.

Parental Authority over Juveniles.

§ 7B-3400. Juvenile under 18 subject to parents' control.

Notwithstanding any other provision of law, any juvenile under 18 years of age, except as provided in G.S. 7B-3402 and G.S. 7B-3403, shall be subject to the supervision and control of the juvenile's parents. (1969, c. 1080, s. 1; 1998-202, s. 6.)

§ 7B-3401. Definitions.

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter. (1998-202, s. 6.)

§ 7B-3402. Exceptions.

This Article shall not apply to any juvenile under the age of 18 who is married or who is serving in the Armed Forces of the United States, or who has been emancipated. (1969, c. 1080, s. 2; 1998-202, s. 6; 2011-183, s. 6.)

§ 7B-3403. No criminal liability created.

This Article shall not be interpreted to place any criminal liability on a parent, guardian, or custodian for any act of the juvenile 16 years of age or older. (1969, c. 1080, s. 3; 1998-202, s. 6.)

§ 7B-3404. Enforcement.

The provisions of this Article may be enforced by the parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court to the juvenile by filing a civil action in the district court of the county where the juvenile can be found or the county of the plaintiff's residence. Upon the institution of such action by a verified complaint, alleging that the defendant juvenile has left home or has left the place where the juvenile has been residing and refuses to return and comply with the direction and control of the plaintiff, the court may issue an order directing the juvenile personally to appear before the court at a specified time to be heard in answer to the allegations of the plaintiff and to comply with further orders of the court. Such orders shall be served by the sheriff upon the juvenile and upon any other person named as a party defendant in such action. At the time of the issuance of the order directing the juvenile to appear, the court may in the same order, or by separate order, order the sheriff to enter any house, building, structure, or conveyance for the purpose of searching for the juvenile and serving the order and for the purpose of taking custody of the person of the juvenile in order to bring the juvenile before the court. Any order issued at said hearing shall be treated as a mandatory injunction and shall remain in full force and effect until the juvenile reaches the age of 18, or until further orders of the court. Within 30 days after the hearing on the original order, the juvenile, or anyone acting in the juvenile's behalf, may file a verified answer to the complaint. Upon the filing of an answer by or on behalf of the juvenile, any district court judge holding court in the county or district court district as defined in G.S. 7A-133 where the action was instituted shall have jurisdiction to hear the matter, without a jury, and to make findings of fact, conclusions of law, and render judgment thereon. Appeals from the district court to the Court of Appeals shall be allowed as in civil actions generally. The district court issuing the original order or the district court hearing the matter after answer has been filed shall also have authority to order that any person named defendant in the order or judgment shall not harbor, keep, or allow the defendant juvenile to remain on the person's premises or in the person's home. Failure of any defendant to comply with the terms of said order or judgment shall be punishable as for contempt. (1969, c. 1080, s. 4; 1987 (Reg. Sess., 1988), c. 1037, s. 108; 1991 (Reg. Sess., 1992), c. 1031, s. 1; 1998-202, s. 6.)

Article 35.
Emancipation.

§ 7B-3500. Who may petition.

Any juvenile who is 16 years of age or older and who has resided in the same county in North Carolina or on federal territory within the boundaries of North Carolina for six months next preceding the filing of the petition may petition the court in that county for a judicial decree of emancipation. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3501. Petition.

The petition shall be signed and verified by the petitioner and shall contain the following information:

- (1) The full name of the petitioner and the petitioner's birth date, and state and county of birth;
- (2) A certified copy of the petitioner's birth certificate;
- (3) The name and last known address of the parent, guardian, or custodian;
- (4) The petitioner's address and length of residence at that address;
- (5) The petitioner's reasons for requesting emancipation; and
- (6) The petitioner's plan for meeting the petitioner's needs and living expenses which plan may include a statement of employment and wages earned that is verified by the petitioner's employer. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3502. Summons.

A copy of the filed petition along with a summons shall be served upon the petitioner's parent, guardian, or custodian who shall be named as respondents. The summons shall include the time and place of the hearing and shall notify the respondents to file written answer within 30 days after service of the summons and petition. In the event that personal service cannot be obtained, service shall be in accordance with G.S. 1A-1, Rule 4(j). (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3503. Hearing.

The court, sitting without a jury, shall permit all parties to present evidence and to cross-examine witnesses. The petitioner has the burden of showing by a preponderance of the evidence that emancipation is in the petitioner's best interests. Upon finding that reasonable cause exists, the court may order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's mental or physical condition. The court may continue the hearing and order investigation by a juvenile court counselor or by the county department of social services to substantiate allegations of the petitioner or respondents.

No husband-wife or physician-patient privilege shall be grounds for excluding any evidence in the hearing. (1979, c. 815, s. 1; 1998-202, s. 6; 2001-490, s. 2.34.)

§ 7B-3504. Considerations for emancipation.

In determining the best interests of the petitioner and the need for emancipation, the court shall review the following considerations:

- (1) The parental need for the earnings of the petitioner;
- (2) The petitioner's ability to function as an adult;

- (3) The petitioner's need to contract as an adult or to marry;
- (4) The employment status of the petitioner and the stability of the petitioner's living arrangements;
- (5) The extent of family discord which may threaten reconciliation of the petitioner with the petitioner's family;
- (6) The petitioner's rejection of parental supervision or support; and
- (7) The quality of parental supervision or support. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3505. Final decree of emancipation.

After reviewing the considerations for emancipation, the court may enter a decree of emancipation if the court determines:

- (1) That all parties are properly before the court or were duly served and failed to appear and that time for filing an answer has expired;
- (2) That the petitioner has shown a proper and lawful plan for adequately providing for the petitioner's needs and living expenses;
- (3) That the petitioner is knowingly seeking emancipation and fully understands the ramifications of the act; and
- (4) That emancipation is in the best interests of the petitioner.

The decree shall set out the court's findings.

If the court determines that the criteria in subdivisions (1) through (4) are not met, the court shall order the proceeding dismissed. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3506. Costs of court.

The court may tax the costs of the proceeding to any party or may, for good cause, order the costs remitted.

The clerk may collect costs for furnishing to the petitioner a certificate of emancipation which shall recite the name of the petitioner and the fact of the petitioner's emancipation by court decree and shall have the seal of the clerk affixed thereon. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3507. Legal effect of final decree.

As of entry of the final decree of emancipation:

- (1) The petitioner has the same right to make contracts and conveyances, to sue and to be sued, and to transact business as if the petitioner were an adult.
- (2) The parent, guardian, or custodian is relieved of all legal duties and obligations owed to the petitioner and is divested of all rights with respect to the petitioner.
- (3) The decree is irrevocable.

Notwithstanding any other provision of this section, a decree of emancipation shall not alter the application of G.S. 14-326.1 or the petitioner's right to inherit property by intestate succession. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3508. Appeals.

Any petitioner, parent, guardian, or custodian who is a party to a proceeding under this Article may appeal from any order of disposition to the Court of Appeals provided that notice of appeal is given in open court at the time of the hearing or in writing within 10 days after entry of the order. Entry of an order shall be treated in the same manner as entry of a judgment under

G.S. 1A-1, Rule 58 of the North Carolina Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a temporary order affecting the custody or placement of the petitioner as the court finds to be in the best interests of the petitioner or the State. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-309, s. 3.)

§ 7B-3509. Application of common law.

A married juvenile is emancipated by this Article. All other common-law provisions for emancipation are superseded by this Article. (1979, c. 815, s. 1; 1998-202, s. 6.)

Article 36.

Judicial Consent for Emergency Surgical or Medical Treatment.

§ 7B-3600. Judicial authorization of emergency treatment; procedure.

A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the General Statutes, whose physician is barred from rendering necessary treatment by reason of parental refusal to consent to treatment, may receive treatment with court authorization under the following procedure:

- (1) The physician shall sign a written statement setting out:
 - a. The treatment to be rendered and the emergency need for treatment;
 - b. The refusal of the parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court to consent to the treatment; and
 - c. The impossibility of contacting a second physician for a concurring opinion on the need for treatment in time to prevent immediate harm to the juvenile.
- (2) Upon examining the physician's written statement prescribed in subdivision (1) of this section and finding:
 - a. That the statement is in accordance with this Article, and
 - b. That the proposed treatment is necessary to prevent immediate harm to the juvenile.The court may issue a written authorization for the proposed treatment to be rendered.
- (3) In acute emergencies in which time may not permit implementation of the written procedure set out in subdivisions (1) and (2) of this section, the court may authorize treatment in person or by telephone upon receiving the oral statement of a physician satisfying the requirements of subdivision (1) of this section and upon finding that the proposed treatment is necessary to prevent immediate harm to the juvenile.
- (4) The court's authorization for treatment overriding parental refusal to consent should not be given without attempting to offer the parent an opportunity to state the reasons for refusal; however, failure of the court to hear the parent's objections shall not invalidate judicial authorization under this Article.
- (5) The court's authorization for treatment under subdivisions (1) and (2) of this section shall be issued in duplicate. One copy shall be given to the treating physician and the other copy shall be attached to the physician's written statement and filed as a juvenile proceeding in the office of the clerk of court.

- (6) The court's authorization for treatment undersubdivision (3) of this section shall be reduced to writing as soon as possible, supported by the physician's written statement as prescribed in subdivision (1) of this section and shall be filed as prescribed in subdivision (5) of this section.

The court's authorization for treatment under this Article shall have the same effect as parental consent for treatment.

Following the court's authorization for treatment and after giving notice to the juvenile's parent, guardian, or custodian the court shall conduct a hearing in order to provide for payment for the treatment rendered. The court may order the parent or other responsible parties to pay the cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the cost shall be a charge upon the county when so ordered.

This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903, 7B-2503, and 7B-2506. (1979, c. 815, s. 1; 1998-202, s. 6.)

SUBCHAPTER V. PLACEMENT OF JUVENILES.

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Article 38.

Interstate Compact on the Placement of Children.

§ 7B-3800. Adoption of Compact.

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in a form substantially as contained in this Article. It is the intent of the General Assembly that Article 37 of this Chapter shall govern interstate placements of children between North Carolina and any other jurisdictions not a party to this Compact. It is the intent of the General Assembly that Chapter 48 of the General Statutes shall govern the adoption of children within the boundaries of North Carolina.

ARTICLE I. PURPOSE AND POLICY.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II. Definitions.

As used in this Compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities of [or] for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

(e) "Appropriate public authorities" as used in Article III shall, with reference to this State, mean the Department of Health and Human Services and said agency shall receive and act with reference to notices required by Article III.

(f) "Appropriate authority in the receiving state" as used in paragraph (a) of Article V shall, with reference to this State, means the Secretary.

(g) "Executive head" as used in Article VII means the Governor.

Article III. Conditions for Placement.

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this Article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date, and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this Article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this Compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article IV. Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this Compact shall constitute a violation of the laws respecting the

placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

Article V. Retention of Jurisdiction.

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this Compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

Article VI. Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this Compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to the child's being sent to such other party jurisdiction for institutional care and the court finds that:

- (1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
- (2) Institutional care in the other jurisdiction is in the best interests of the child and will not produce undue hardship.

Article VII. Compact Administrator.

The executive head of each jurisdiction party to this Compact shall designate an officer who shall be general coordinator of activities under this Compact in the officer's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this Compact.

Article VIII. Limitations.

This Compact shall not apply to: (a) the sending or bringing of a child into a receiving

state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in the receiving state. (b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article IX. Enactment and Withdrawal.

This Compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this Compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this Compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X. Construction and Severability.

The provisions of this Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (1971, c. 453, s. 1; 1973, c. 476, s. 138; 1983, c. 454, s. 8; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-423, s. 3.)

§ 7B-3801. Financial responsibility under Compact.

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of any other state laws fixing responsibility for the support of children also may be invoked. (1971, c. 453, s. 2; 1998-202, s. 6.)

§ 7B-3802. Agreements under Compact.

The officers and agencies of this State and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this State or subdivision or agency thereof shall not be binding unless it has the approval in writing of the Secretary of the Department of Health and Human Services in the case of the State and of the county director of social services in the case of a county or other subdivision of the State. (1971, c. 453, s. 2; 1973, c. 476, s. 138; 1997-443, s. 11A.118(a);

1998-202, s. 6.)

§ 7B-3803. Visitation, inspection or supervision.

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under the laws of this State shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this State or a subdivision thereof as contemplated by paragraph (b) of Article V of the Interstate Compact on the Placement of Children. (1971, c. 453, s. 2; 1998-202, s. 6.)

§ 7B-3804. Compact to govern between party states.

The provisions of Article 37 of this Chapter shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children. (1971, c. 453, s. 2; 1998-202, s. 6.)

§ 7B-3805. Placement of delinquents.

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof. (1971, c. 453, s. 2; 1998-202, s. 6.)

§ 7B-3806. Compact Administrator.

The Governor is hereby authorized to appoint a Compact Administrator in accordance with the terms of said Article VII. (1971, c. 453, s. 2; 1998-202, s. 6.)

Article 39.

Interstate Compact on Adoption and Medical Assistance.

§ 7B-3900. Legislative findings and purposes.

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to G.S. 108A-49 and G.S. 108A-50, and assuring the protection of the interests of the children affected during the entire assistance period require special measures when the adoptive parents move to another state or are residents of another state. Additionally, the provision of medical and other necessary services for children receiving State assistance encounters special difficulties when the provision of services takes place in another state.

(b) In recognition of the need for special measures, the General Assembly authorizes the Secretary of the Department of Health and Human Services to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department of Health and Human Services and to provide procedures for interstate adoption assistance payments, including payments for medical services. (1999-190, s. 5.)

§ 7B-3901. Definitions.

Unless the context requires otherwise, as used in this Article:

- (1) "Adoption assistance state" means the state that is a signatory to an adoption assistance agreement in a particular case.
- (2) "Residence state" means the state where the child is living.
- (3) "State" means a state of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any territory or possession subject to the jurisdiction of the United States. (1999-190, s. 5.)

§ 7B-3902. Compacts authorized.

The Secretary of the Department of Health and Human Services may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this State with other states to implement this Article. When entered into, and for so long as it remains in force, such a compact shall have the full force and effect of law. (1999-190, s. 5.)

§ 7B-3903. Content of compacts.

(a) A compact under this Article shall contain all of the following provisions:

- (1) A provision making it available for joinder by all states.
- (2) A provision for withdrawal from the compact upon written notice to the parties, with a period of at least one year between the date of the notice and effective date of the withdrawal.
- (3) A requirement that the protections afforded by or under the compact continue in force for the duration of the adoption assistance and apply to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the state in which they are a resident and have their principal place of abode.
- (4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance and that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state child welfare agency providing the adoption assistance.
- (5) Any other provisions appropriate to implement the proper administration of the compact.

(b) A compact entered into under this Article may contain any of the following provisions:

- (1) Provisions establishing procedures and entitlement to medical and other necessary social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the expense thereof.
- (2) Any other provisions appropriate or incidental to the proper administration of the compact. (1999-190, s. 5.)

§ 7B-3904. Medical assistance.

(a) A child with special needs who is a resident of this State who is the subject of an adoption assistance agreement with another state shall be accepted as being entitled to receive medical assistance certification from this State upon the filing in the department of social services of the county in which the child resides a certified copy of the adoption assistance agreement obtained from the adoption assistance state.

(b) The Division of Medical Assistance shall consider the holder of a medical assistance certification under this section to be entitled to the same medical benefits under the laws of this

State as any other holder of a medical assistance certification and shall process and make payment on claims on account of that holder in the same manner and under the same conditions and procedures that apply to other recipients of medical assistance.

(c) The provisions of this section apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this State under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this State. (1999-190, s. 5.)

§ 7B-3905. Federal participation.

The Department of Health and Human Services, in connection with the administration of this Article and any compact entered into pursuant to this Article, shall include the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (E) and XIX of the Social Security Act and any other applicable federal laws. The Department shall apply for and administer all relevant federal aid in accordance with law. (1999-190, s. 5.)

§ 7B-3906. Compact Administrator.

The Secretary of the Department of Health and Human Services may appoint a Compact Administrator who shall be the general coordinator of activities under this Compact in this State and who, acting jointly with like officers of other party states, may promulgate rules to carry out more effectively the terms and provisions of this Compact. (1999-190, s. 5.)

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Crimes Related to Child and Family Issues

§ 14-27.21. First-degree forcible rape.

(a) A person is guilty of first-degree forcible rape if the person engages in vaginal intercourse with another person by force and against the will of the other person, and does any of the following:

- (1) Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.
- (2) Inflicts serious personal injury upon the victim or another person.
- (3) The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, s. 3(a), (b).)

§ 14-27.22. Second-degree forcible rape.

(a) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 5; 1981, cc. 63, 179; 1993, c. 539, s. 1130; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(b); 2004-128, s. 8; 2015-181, s. 4(a), (b).)

§ 14-27.23. Statutory rape of a child by an adult.

(a) A person is guilty of statutory rape of a child by an adult if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality,

duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

(e) The offense under G.S. 14-27.24 is a lesser included offense of the offense in this section. (2008-117, s. 1; 2015-181, s. 5(a), 5(b).)

§ 14-27.24. First-degree statutory rape.

(a) A person is guilty of first-degree statutory rape if the person engages in vaginal intercourse with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, s. 6.)

§ 14-27.25. Statutory rape of person who is 15 years of age or younger.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-62, s. 1(a); 2015-181, s. 7(a), (b).)

§ 14-27.26. First-degree forcible sexual offense.

(a) A person is guilty of a first degree forcible sexual offense if the person engages in a sexual act with another person by force and against the will of the other person, and does any of the following:

(1) Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.

(2) Inflicts serious personal injury upon the victim or another person.

(3) The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 63; c. 106, ss. 3, 4; c. 179, s. 14; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3; 2015-181, s. 8(a), (b).)

§ 14-27.27. Second-degree forcible sexual offense.

(a) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 7; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1131; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(c); 2015-181, s. 9(a), (b).)

§ 14-27.28. Statutory sexual offense with a child by an adult.

(a) A person is guilty of statutory sexual offense with a child by an adult if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) The offense under G.S. 14-27.29 is a lesser included offense of the offense in this section. (2008-117, s. 2; 2015-181, s. 10(a), (b).)

§ 14-27.29. First-degree statutory sexual offense.

(a) A person is guilty of first-degree statutory sexual offense if the person engages in a sexual act with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 63; c. 106, ss. 3, 4; c. 179, s. 14; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3; 2015-181, s. 11.)

§ 14-27.30. Statutory sexual offense with a person who is 15 years of age or younger.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-181, s. 12.)

§ 14-27.31. Sexual activity by a substitute parent or custodian.

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, the defendant is guilty of a Class E felony.

(b) If a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.

(c) Consent is not a defense to a charge under this section. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 9; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1132; 1994, Ex. Sess., c. 24, s. 14(c); 1999-300, s. 2; 2003-98, s. 1; 2015-181, ss. 13(a), (b).)

§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. (2003-252, s. 2; 2015-181, s. 15.)

§ 14-177. Crime against nature.

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon. (5 Eliz., c. 17; 25 Hen. VIII, c. 6; R.C., c. 34, s. 6; 1868-9, c. 167, s. 6; Code, s. 1010; Rev., s. 3349; C.S., s. 4336; 1965, c. 621, s. 4; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1191; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-178. Incest.

(a) Offense. - A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.

(b) Punishment and Sentencing. -

(1) A person is guilty of a Class B1 felony if either of the following occurs:

- a. The person commits incest against a child under the age of 13 and the person is at least 12 years old and is at least four years older than the child when the incest occurred.
- b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six years older than the child when the incest occurred.

(2) A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than four but less than six years older than the child when the incest occurred.

(3) In all other cases of incest, the parties are guilty of a Class F felony.

(c) No Liability for Children Under 16. - No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred. (1879, c. 16, s. 1; Code, s. 1060; Rev., s. 3351; 1911, c. 16; C.S., s. 4337; 1965, c. 132; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1192; 1994, Ex. Sess., c. 24, s. 14(c); 2002-119, s. 1.)

§ 14-190.5. Preparation of obscene photographs, slides and motion pictures.

Every person who knowingly:

- (1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for the purpose of dissemination; or
- (2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for the purpose of dissemination,

shall be guilty of a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 5; 1993, c. 539, s. 123; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.6. Employing or permitting minor to assist in offense under Article.

Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1983, c. 916, s. 2; 1985, c. 703, s. 6.)

§ 14-190.7. Dissemination to minors under the age of 16 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1977, c. 440, s. 2; 1985, c. 703, s. 7.)

§ 14-190.8. Dissemination to minors under the age of 13 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a Class I felon. (1971, c. 405, s. 1; 1977, c. 440, s. 3; 1979, c. 760, s. 5; 1983, c. 175, ss. 7, 10, c. 720, ss. 4, 10; 1985, c. 703, s. 8; 1993, c. 539, s. 1195; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.14. Displaying material harmful to minors.

(a) Offense. - A person commits the offense of displaying material that is harmful to minors if, having custody, control, or supervision of a commercial establishment and knowing the character or content of the material, he displays material that is harmful to minors at that establishment so that it is open to view by minors as part of the invited general public. Material is not considered displayed under this section if the material is placed behind "blinder racks" that cover the lower two thirds of the material, is wrapped, is placed behind the counter, or is otherwise covered or located so that the portion that is harmful to minors is not open to the view of minors.

(b) Punishment. - Violation of this section is a Class 2 misdemeanor. Each day's violation of this section is a separate offense. (1985, c. 703, s. 9; 1993, c. 539, s. 125; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.15. Disseminating harmful material to minors; exhibiting harmful performances to minors.

(a) Disseminating Harmful Material. - A person commits the offense of disseminating harmful material to minors if, with or without consideration and knowing the character or content of the material, he:

- (1) Sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or
- (2) Allows a minor to review or peruse material that is harmful to minors.

(b) Exhibiting Harmful Performance. - A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance that is harmful to minors.

(c) Defenses. - Except as provided in subdivision (3), a mistake of age is not a defense to a prosecution under this section. It is an affirmative defense to a prosecution under this section that:

- (1) The defendant was a parent or legal guardian of the minor.
- (2) The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospital carrying out its legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.
- (3) Before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least 18 years old, and the defendant reasonably believed the minor was at least 18 years old.

(4) The dissemination was made with the prior consent of a parent or guardian of the recipient.

(d) Punishment. - Violation of this section is a Class 1 misdemeanor. (1985, c. 703, s. 9; 1993, c. 539, s. 126; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.16. First degree sexual exploitation of a minor.

(a) Offense. - A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

- (1) Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or
- (2) Permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or
- (3) Transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or
- (4) Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(b) Inference. - In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. - Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. - Violation of this section is a Class C felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1196; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 19.5(o); 2008-117, s. 3; 2008-218, s. 2.)

§ 14-190.17. Second degree sexual exploitation of a minor.

(a) Offense. - A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

- (1) Records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or
- (2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(b) Inference. - In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. - Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. - Violation of this section is a Class E felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1197; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 4; 2008-218, s. 3.)

§ 14-190.17A. Third degree sexual exploitation of a minor.

(a) Offense. - A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

(b) Inference. - In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. - Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. - Violation of this section is a Class H felony. (1989 (Reg. Sess., 1990), c. 1022, s. 1; 1993, c. 539, s. 1198; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 5; 2008-218, s. 4.)

§ 14-202.1. Taking indecent liberties with children.

(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:

- (1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or
- (2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

(b) Taking indecent liberties with children is punishable as a Class F felony. (1955, c. 764; 1975, c. 779; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1201; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-315.1. Storage of firearms to protect minors.

(a) Any person who resides in the same premises as a minor, owns or possesses a firearm, and stores or leaves the firearm (i) in a condition that the firearm can be discharged and (ii) in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm, is guilty of a Class 1 misdemeanor if a minor gains access to the firearm without the lawful permission of the minor's parents or a person having charge of the minor and the minor:

- (1) Possesses it in violation of G.S. 14-269.2(b);
- (2) Exhibits it in a public place in a careless, angry, or threatening manner;
- (3) Causes personal injury or death with it not in self defense; or
- (4) Uses it in the commission of a crime.

(b) Nothing in this section shall prohibit a person from carrying a firearm on his or her body, or placed in such close proximity that it can be used as easily and quickly as if carried on the body.

(c) This section shall not apply if the minor obtained the firearm as a result of an unlawful entry by any person.

(d) "Minor" as used in this section means a person under 18 years of age who is not emancipated. (1993, c. 558, s. 2; 1994, Ex. Sess., c. 14, s. 11.)

§ 14-318.2. Child abuse a misdemeanor.

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be

inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class A1 misdemeanor of child abuse.

(b) The Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant. (1965, c. 472, s. 1; 1971, c. 710, s. 6; 1993, c. 539, s. 223; 1994, Ex. Sess., c. 14, s. 13; c. 24, s. 14(c); 2001-291, s. 4; 2008-191, s. 1; 2009-570, s. 6.)

§ 14-318.4. Child abuse a felony.

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class D felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class D felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class D felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class B2 felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class G felony if the act or omission results in serious physical injury to the child.

(a6) For purposes of this section, a "grossly negligent omission" in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement as provided in G.S. 14-318.5(b).

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

- (1) Serious bodily injury. - Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or

impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

- (2) Serious physical injury. - Physical injury that causes great pain and suffering. The term includes serious mental injury. (1979, c. 897, s. 1; 1979, 2nd Sess., c. 1316, s. 18; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 653, s. 1; c. 916, § 1; 1985, c. 509, s. 5; c. 668; 1993, c. 539, s. 1233; 1994, Ex. Sess., c. 24, s. 14(c); 1999-451, s. 1; 2001-291, s. 5; 2008-191, s. 2; 2013-35, s. 1; 2013-52, s. 3.)

§ 14-322. Abandonment and failure to support spouse and children.

(a) For purposes of this Article:

- (1) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support.
- (2) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a Class 1 or 2 misdemeanor and upon conviction shall be punished according to subsection (f).

(c) Any supporting spouse who, while living with a dependent spouse, shall willfully neglect to provide adequate support for that dependent spouse shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(d) Any parent who shall willfully neglect or refuse to provide adequate support for that parent's child, whether natural or adopted, and whether or not the parent abandons the child, shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f). Willful neglect or refusal to provide adequate support of a child shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child of the parent shall reach the age of 18 years.

(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply.

(f) A first offense under this section is a Class 2 misdemeanor. A second or subsequent offense is a Class 1 misdemeanor. (1868-9, c. 209, s. 1; 1873-4, c. 176, s. 10; 1879, c. 92; Code, s. 970; Rev., s. 3355; C.S., s. 4447; 1925, c. 290; 1949, c. 810; 1957, c. 369; 1969, c. 1045, s. 1; 1981, c. 683, s. 1; 1989, c. 529, s. 4; 1993, c. 517, s. 3, c. 539, ss. 225, 226; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-322.1. Abandonment of child or children for six months.

Any man or woman who, without just cause or provocation, willfully abandons his or her child or children for six months and who willfully fails or refuses to provide adequate means of support for his or her child or children during the six months' period, and who attempts to conceal his or her whereabouts from his or her child or children with the intent of escaping his

lawful obligation for the support of said child or children, shall be punished as a Class I felon. (1963, c. 1227; 1979, c. 760, s. 5; 1983, c. 653, s. 2.)

§ 14-322.3. Abandonment of an infant under seven days of age.

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under G.S. 14-322, 14-322.1, or 14-43.14. (2001-291, s. 7; 2012-153, s. 4.)

Relinquishment of Minor for Adoption

§ 48-3-701. Individuals who may relinquish minor; timing.

(a) A parent or guardian may relinquish all parental rights or guardianship powers, including the right to consent to adoption, to an agency. If both parents are married to each other and living together, both parents must act jointly in relinquishing a child to an agency.

(b) The mother of a minor child may execute a relinquishment at any time after the child is born but not sooner. A man whose consent is required under G.S. 48-3-601 may execute a relinquishment either before or after the child is born.

(c) A guardian may execute a relinquishment at any time. (1949, c. 300; 1953, c. 906; 1961, c. 186; 1969, c. 911, s. 7; c. 982; 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1985, c. 758, ss. 10, 11; 1995, c. 457, s. 2.)

§ 48-3-702. Procedures for relinquishment.

(a) A relinquishment executed by a parent or guardian must conform substantially to the requirements in this Part and must be signed and acknowledged under oath before an individual authorized to administer oaths or take acknowledgments.

(b) The provisions of G.S. 48-3-605(b), (e), (f), and (g) also apply to a relinquishment executed under this Part.

(b1) An individual before whom a relinquishment is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's knowledge or belief, the parent, guardian, or minor to be adopted executing the relinquishment has met each of the following:

- (1) Read, or had read to him or her, and understood the relinquishment.
- (2) Signed the relinquishment voluntarily.
- (3) Been given an original or copy of his or her fully executed relinquishment.
- (4) Been advised that counseling services are available through the agency to which the relinquishment is given.

(c) An agency that accepts a relinquishment shall furnish each parent or guardian who signs the relinquishment a letter or other writing indicating the agency's willingness to accept that person's relinquishment. (1995, c. 457, s. 2; 1997-215, s. 7(a); 2013-236, s. 10; 2015-264, s. 44(b).)

§ 48-3-703. Content of relinquishment; mandatory provisions.

(a) A relinquishment executed by a parent or guardian under G.S. 48-3-701 must be in writing and state the following:

- (1) The date and place of the execution of the relinquishment.
 - (2) The name, date of birth, and permanent address, if any, and if none, the current mailing address, of the individual executing the relinquishment.
 - (3) The date of birth or the expected delivery date, the sex, and the name of the minor, if known.
 - (4) The name and address of the agency to which the minor is being relinquished.
 - (5) That the individual voluntarily consents to the permanent transfer of legal and physical custody of the minor to the agency for the purposes of adoption, and
 - a. The placement of the minor for adoption with a prospective adoptive parent selected by the agency; or
 - b. The placement of the minor for adoption with a prospective adoptive parent selected by the agency and agreed upon by the individual executing the relinquishment.
 - (6) That the individual executing the relinquishment understands that after the relinquishment is signed and acknowledged in the manner provided in G.S. 48-3-702, it may be revoked in accord with G.S. 48-3-706 but that it is otherwise final and irrevocable except under the circumstances set forth in G.S. 48-3-707.
 - (7) That the relinquishment shall be valid and binding and shall not be affected by any oral or separate written agreement between the individual executing the consent and the agency.
 - (8) That the individual executing the relinquishment understands that when the adoption is final, all rights and duties of the individual executing the relinquishment with respect to the minor will be extinguished and all other aspects of the legal relationship between the minor child and the parent will be terminated.
 - (9) That the individual executing the relinquishment has not received or been promised any money or anything of value for the relinquishment of the minor, and has not received or been promised any money or anything of value in relation to the relinquishment or the adoption of the minor except for lawful payments that are itemized on a schedule attached to the relinquishment.
 - (10) That the individual executing the relinquishment waives notice of any proceeding for adoption.
 - (11) That the individual executing the relinquishment has provided the agency with the written document required by G.S. 48-3-205, or that the individual has provided the agency with signed releases that will permit the agency to compile the information required by G.S. 48-3-205.
 - (12) That the individual executing the relinquishment has:
 - a. Repealed by Session Laws 2013-236, s. 9, effective July 3, 2013.
 - b. Been advised that counseling services are available through the agency to which the relinquishment is given; and
 - c. Been advised of the right to employ independent legal counsel.
- (b) Reserved. (1995, c. 457, s. 2; 2013-236, s. 11; 2015-54, s. 11.)

§ 48-3-704. Content of relinquishment; optional provisions.

In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment may also state that the relinquishment may be revoked upon notice by the agency that an adoption by a specific prospective adoptive parent, named or described in the relinquishment is not completed. In this event the parent's time to revoke a relinquishment is 10 days, inclusive of weekends and holidays, from the date the parent receives such notice from the agency. The revocation shall be in writing and delivered in a manner specified in G.S. 48-3-706(a) for revocation of relinquishments. An agency, which after the exercise of due diligence cannot personally locate the parent entitled to this notice, may deposit a copy of the notice in the United States mail, return receipt requested, addressed to the address of the parent given in the relinquishment, and the date of receipt by the parent is deemed to be the date of delivery or last attempted delivery. If a parent does not revoke the relinquishment in the time and manner provided in this section, the relinquishment is deemed a general relinquishment to the agency, and the agency may place the child for adoption with a prospective adoptive parent selected by the agency. (1995, c. 457, s. 2; 1997-215, s. 19.1(a); 2001-208, s. 15; 2001-487, s. 101.)

§ 48-3-705. Consequences of relinquishment.

(a) A relinquishment executed pursuant to G.S. 48-3-702 through G.S. 48-3-704 may be revoked as provided in G.S. 48-3-706 and is otherwise final and irrevocable except under a circumstance set forth in G.S. 48-3-707.

(b) Upon execution, a relinquishment by a parent or guardian entitled under G.S. 48-3-201 to place a minor for adoption:

- (1) Vests legal and physical custody of the minor in the agency; and
- (2) Empowers the agency to place the minor for adoption with a prospective adoptive parent selected in the manner specified in the relinquishment.

(c) A relinquishment terminates:

- (1) Any right and duty of the individual who executed the relinquishment with respect to the legal and physical custody of the minor.
- (2) The right to consent to the minor's adoption.
- (3) Repealed by Session Laws 1997-215, s. 19.1(b).

(d) Except as provided in subsection (c) of this section, parental rights and duties of a parent who executed a relinquishment are not terminated until the decree of adoption becomes final or the parental relationship is otherwise legally terminated, whichever occurs first. Until termination the minor remains the child of a parent who executed a relinquishment for purposes of any inheritance, succession, insurance, arrears of child support, and other benefit or claim that the minor may have from, through, or against the parent. (1949, c. 300; 1953, c. 906; 1957, c. 778, s. 6; 1961, c. 186; 1967, c. 926, s. 1; 1969, c. 911, ss. 7, 9; c. 982; 1973, c. 476, s. 138; 1975, c. 702, ss. 1-3; 1977, c. 879, s. 5; 1983, c. 454, ss. 4, 7; cc. 83, 688; 1985, c. 758, ss. 10-12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-215, s. 19.1(b).)

§ 48-3-706. Revocation of relinquishments.

(a) A relinquishment of any infant who is in utero or any minor may be revoked within seven days following the day on which it is executed by the infant or minor's parent or guardian, inclusive of weekends and holidays. If the final day of the period falls on a Saturday, Sunday, or a legal holiday when North Carolina courthouses are closed for transactions, then the revocation period extends to the next business day. The individual who gave the relinquishment may revoke

by giving written notice to the agency to which the relinquishment was given. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the agency at the agency's address as given in the relinquishment. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the agency at the agency's address as given in the relinquishment.

(b) If a person who has physical custody relinquishes a minor and thereafter revokes a relinquishment pursuant to this section, the agency shall upon request return the minor to that person. The revocation restores the right to physical custody and any right to legal custody to the person who relinquished the minor and divests the agency of any right to legal or physical custody and any further responsibility for the care and support of the minor. In any subsequent proceeding, the court may award the person who revoked reasonable attorneys' fees from a prospective adoptive parent with whom the minor was placed who refuses to return the minor and from the agency if the agency fails to cooperate in securing the minor's return.

(c) If a person other than a person described in subsection (b) of this section revokes a relinquishment pursuant to this section and this person's consent is required, the agency may not give consent for the adoption and the adoption cannot proceed until another relinquishment or a consent is obtained or parental rights are terminated. The person who revoked the relinquishment is not thereby entitled to physical custody of the minor.

(d) A second relinquishment for placement with the same adoptive parent selected by the agency and agreed upon by the person executing the relinquishment, or a second general relinquishment for placement by the agency with any adoptive parent selected by the agency, is irrevocable. (1949, c. 300; 1957, c. 778, s. 6; 1961, c. 186; 1969, c. 982; 1983, cc. 83, 688; 1985, c. 758, s. 12; 1987, c. 541, s. 1; 1991, c. 667, s. 1; 1995, c. 457, s. 2; 1997-456, s. 56.2(a); 2001-150, s. 11; 2009-185, s. 6.)

§ 48-3-707. Challenges to validity of relinquishments.

(a) A relinquishment shall become void if any of the following occur:

- (1) Before the entry of the adoption decree, the individual who executed the relinquishment establishes by clear and convincing evidence that it was obtained by fraud or duress.
- (2) Before placement with a prospective adoptive parent occurs, the agency and the person relinquishing the minor agree to rescind the relinquishment.
- (3) After placement with a prospective adoptive parent occurs, but before the entry of the adoption decree, the agency, the person relinquishing the minor, and the prospective adoptive parent agree to rescind the relinquishment.
- (4) Upon motion of a county department of social services or licensed child-placing agency under G.S. 7B-909, the court orders that the relinquishment shall be voided based on a finding that another consent or relinquishment necessary for an adoption cannot be obtained and that no further steps are being taken to terminate the parental rights of the parent from whom the consent or relinquishment has not been obtained.

(b) A relinquishment may be revoked upon the happening of a condition expressly provided for in the relinquishment pursuant to G.S. 48-3-704.

(c) If the relinquishment of an individual who previously had legal and physical custody of a minor is set aside under subsection (a) or (b) of this section and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall order the return of the minor to the custody of that individual, and shall dismiss any pending proceeding for adoption. If the court has reasonable cause to believe that the return will be detrimental to the minor, the court shall not order the return of the minor but shall notify the county department of social services for appropriate action.

(d) If the relinquishment of an individual who did not previously have physical custody of a minor is set aside under subsection (a) or (b) of this section, and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending proceeding for adoption. If return of the minor is not ordered under subsection (c) of this section, the court shall notify the county department of social services for appropriate action. (1995, c. 457, s. 2; 1997-215, s. 19.1(c); 2012-16, s. 8; 2013-236, s. 12.)

Social Worker is Director's Representative

§ 108A-14. Duties and responsibilities.

(a) The director of social services shall have the following duties and responsibilities:

- (1) To serve as executive officer of the board of social services and act as its secretary;
- (2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the North Carolina Human Resources Commission;
- (3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;
- (4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;
- (5) To act as agent of the Social Services Commission and Department of Health and Human Services in relation to work required by the Social Services Commission and Department of Health and Human Services in the county;
- (6) To investigate cases for adoption and to supervise adoptive placements;
- (7) To issue employment certificates to children under the regulations of the State Department of Labor;
- (8) To supervise adult care homes under the rules and regulations of the Medical Care Commission;
- (9) To assist and cooperate with the Division of Adult Correction of the Department of Public Safety and their representatives;
- (10) Repealed by Session Laws 2003-13, s. 7, effective April 17, 2003, and applicable to all petitions for sterilization pending and orders authorizing sterilization that have not been executed as of April 17, 2003.
- (11) To assess reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B of the General Statutes;

- (12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care;
 - (13) To respond by investigation to notification of a proposed adoptive placement pursuant to G.S. 48-3(b) and (c); and
 - (14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults.
 - (15) To receive and evaluate reports of financial exploitation of disabled adults, to investigate credible reports of financial exploitation under Article 6A of this Chapter, and to take appropriate action to protect these adults.
- (b) The director may delegate to one or more members of his staff the authority to act as his representative. The director may limit the delegated authority of his representative to specific tasks or areas of expertise. The director may designate, subject to the approval of the Commissioner of Labor, additional personnel outside his staff to issue youth employment certificates. (1917, c. 170, s. 1; 1919, c. 46, s. 3; C.S., s. 5017; 1941, c. 270, s. 5; 1957, c. 100, s. 1; 1961, c. 186; 1969, c. 546, s. 1; 1971, c. 710, s. 5; 1973, c. 476, ss. 133.3, 138; c. 1262, s. 109; c. 1339, s. 2; 1977, 2nd Sess., c. 1219, s. 8; 1981, c. 275, s. 1; 1983, c. 293; 1985, c. 203, ss. 1, 2; 1991, c. 258, s. 1; 1993, c. 553, s. 31; 1995, c. 214, s. 2; c. 535, s. 4; 1997-443, s. 11A.118(a); 1998-202, s. 13(v); 2003-13, s. 7; 2005-55, s. 12; 2005-276, s. 10.42; 2011-145, s. 19.1(h); 2013-337, s. 3; 2013-382, s. 9.1(c).)

Foster Care and Adoption Benefits

§ 108A-48. State Foster Care Benefits Program.

(a) The Department is authorized to establish a State Foster Care Benefits Program with appropriations by the General Assembly for the purpose of providing assistance to children who are placed in foster care facilities by county departments of social services in accordance with the rules and regulations of the Social Services Commission. Such appropriations, together with county contributions for this purpose, shall be expended to provide for the costs of keeping children in foster care facilities.

(b) **(Effective until January 1, 2017 - see note)** No benefits provided by this section shall be granted to any individual who has passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or has been accepted for enrollment as a full-time student for the next school term pursuing a high school diploma or its equivalent; a course of study at the college level; or a course of vocational or technical training designed to fit him for gainful employment.

(c) **(Effective January 1, 2017 - see note)** The Department may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80

hours per month, or (v) incapable of completing the educational or employment requirements of this subsection due to a medical condition or disability.

(d) **(Effective January 1, 2017 - see note)** With monthly supervision and oversight by the director of the county department of social services or a supervising agency, an individual receiving benefits pursuant to subsection (c) of this section may reside outside a foster care facility in a college or university dormitory or other semi-supervised housing arrangement approved by the director of the county department of social services and continue to receive benefits pursuant to this section. (1981, c. 275, s. 1; 2015-241, s. 12C.9(a).)

§ 108A-49. Foster care and adoption assistance payments.

(a) Benefits in the form of foster care assistance shall be granted in accordance with the rules of the Social Services Commission to any dependent child who would have been eligible to receive Aid to Families with Dependent Children (as that program was in effect on June 1, 1995), but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child's placement and care is the responsibility of a county department of social services. A county department of social services shall pay, at a minimum, the monthly graduated foster care assistance payments for eligible children as set by the General Assembly. A county department of social services may make foster care assistance payments in excess of the monthly graduated rates set by the General Assembly.

(b) Adoption assistance payments for certain adoptive children shall be granted in accordance with the rules of the Social Services Commission to adoptive parents who adopt a child eligible to receive foster care maintenance payments or supplemental security income benefits; provided, that the child cannot be returned to his or her parents; and provided, that the child has special needs which create a financial barrier to adoption. A county department of social services shall pay, at a minimum, the monthly graduated adoption assistance payments for eligible children as set by the General Assembly. A county department of social services may make adoption assistance payments in excess of the monthly graduated rates set by the General Assembly.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments.

(d) Except as otherwise prohibited by federal law, the Department of Health and Human Services, Division of Social Services, shall not require a redetermination of a child's eligibility for vendor payments under any adoption assistance agreement established prior to July 1, 2011. Nothing in this subsection shall make vendor assistance an entitlement.

(e) **(Effective January 1, 2017)** If all other eligibility criteria are met, adoption assistance payments may continue until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age of 16 but prior to reaching the age of 18. (1981, c. 275, s. 1; 1997-443, s. 12.10; 1999-190, s. 3; 2011-383, s. 1; 2015-241, s. 12C.9(b).)

Confidentiality

§ 108A-80. Confidentiality of records.

(a) Except as provided in subsections (b) and (b1) of this section, it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or

social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules and regulations, and the rules of the Social Services Commission or the Department.

(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Work First Family Assistance in Standard Program Counties and State-County Special Assistance, their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. These registers shall be public records open to public inspection during the regular office hours of the county auditor, but the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor.

(b1) The Department may share confidential information concerning a person receiving public assistance or social services with a local school administrative unit and with the Department of Public Instruction. Disclosure is limited to that information necessary to establish, coordinate, or maintain appropriate educational services for the person receiving public assistance or social services.

(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a Class 1 misdemeanor.

(d) The Social Services Commission may adopt rules governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Health and Human Services shall have the authority to adopt rules governing access to medical assistance case files. (1937, c. 288, ss. 18, 48; 1939, c. 395, s. 1; 1957, c. 100, s. 1; 1969, c. 546, s. 1; cc. 735, 754; 1973, c. 476, s. 138; 1977, 2nd Sess., c. 1219, s. 19; 1981, c. 275, s. 1; c. 419, s. 4; 1993, c. 539, ss. 819, 820; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, ss. 11A.118(a), 12.12; 2010-31, s. 10.19A(i); 2014-100, s. 8.39(a).)

Foster Children Can Go to School Where They Live

§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are

assigned by the local boards of education. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

(a1) Children living in and cared for and supported by an institution established, operated, or incorporated for the purpose of rearing and caring for children who do not live with their parents are considered legal residents of the local school administrative unit in which the institution is located. These children are eligible for admission to the public schools of the local school administrative unit as provided in this section.

(a2) It is the policy of the State that every child of a homeless individual and every homeless child and youth has access to a free, appropriate public education. The State Board of Education and every local board of education shall ensure compliance with the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001. A local board of education shall not charge a homeless child or youth tuition for enrollment. An unaccompanied youth or a homeless child's or youth's parent, guardian, or legal custodian may apply to the State Board of Education for a determination of whether a particular local board of education shall enroll the homeless child or youth, and this determination shall be binding on the local board of education, subject to judicial review.

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:
 - a. The death, serious illness, or incarceration of a parent or legal guardian.
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance.
 - c. Abuse or neglect by the parent or legal guardian.
 - d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student.
 - e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health.
 - f. The loss or uninhabitability of the student's home as the result of a natural disaster.
 - g. The parent or legal guardian is one of the following:
 1. On active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days.
 2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired, but only for a period of one year after the medical discharge or retirement of the parent or guardian.
 3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for a period

of one year after death. For purposes of this sub-sub-subdivision, the term "active duty" is as defined in G.S. 115C-407.5

Assignment under this sub-subdivision is only available if some evidence of the deployment, medical discharge, retirement, or death is tendered with the affidavits required under subdivision (3) of this subsection.

(2) The student is:

- a. Not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit, or
- b. Currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit and is identified as eligible for special education and related services under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004). Assignment under this sub-subdivision is available only if evidence of current eligibility is tendered with the affidavit required under subdivision (3) of this subsection.

(3) The caregiver adult and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that do all of the following:

- a. Confirm the qualifications set out in this subsection establishing the student's residency.
- b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit.
- c. Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the affidavit. If the student is a minor, the caregiver adult must make educational decisions concerning the student and has the same legal authority and responsibility regarding the student as a parent or legal custodian would have even if the parent, guardian, or legal custodian does not sign the affidavit. The minor student's parent, legal guardian, or legal custodian retains liability for the student's acts.

Upon receipt of both affidavits or an affidavit from the caregiver adult that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit.

If it is found that the information contained in either or both affidavits is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit shall be guilty of a Class 1 misdemeanor and shall pay to the local board an amount

equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

Affidavits shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information in an affidavit.

(a4) When a student transfers into the public schools of a local school administrative unit, that local board shall require the student's parent, guardian, or legal custodian to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a felony in this or any other state. This subsection does not apply to the enrollment of a student who has never been enrolled in or attended a private or public school in this or any other state.

(a5) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-390.5 through G.S. 115C-390.10 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-390.11 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or staff as found by clear and convincing evidence, or who has been convicted of a felony in this or any other state. If the local board denies admission to a student who has been expelled or convicted of a felony, the student may request the local board to reconsider that decision in accordance with G.S. 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

(a6) A child who is placed in or assigned to a licensed facility is eligible for admission, without the payment of tuition, to the public schools of the local school administrative unit in which the licensed facility is located. If an agency or person, other than the student's parent or guardian, is the student's legal custodian and if that person or agency placed or assigned the student to a licensed facility under this subsection, then that agency or person must provide in writing to the school the name, address, and phone number of the individual who has authority and the responsibility to make educational decisions for the student. This individual shall reside or be employed within the local school administrative unit and shall provide in writing to the school a signed statement that the individual understands and accepts this authority and responsibility to make educational decisions for the student. If the student's parent or legal guardian retains legal custody of a child who is placed in or assigned to a licensed facility under this subsection, then the requirements of subsection (a3) of this section must be met.

(a7) A student who is a resident of a local school administrative unit because the student resides with a parent, guardian, or legal custodian who is a (i) student, employee, or faculty member of a college or university or (ii) visiting scholar at the National Humanities Center is considered domiciled in that unit for purposes of this section.

(a8) A student is considered domiciled in a local school administrative unit for purposes of this section if the student resides (i) with a legal custodian who is not the student's parent or

guardian and the legal custodian is domiciled in the local school administrative unit, or (ii) in a preadoptive home following placement by a county department of social services or a licensed child-placing agency.

(b) Each local board of education shall assign to a public school each student qualified for assignment under this section. Except as otherwise provided by law, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete, and its decision as to the assignment of any child to any school shall be final.

(c) Any child who is qualified under the laws of this State for admission to a public school and who has a place of residence in a local school administrative unit incident to the child's parent's or guardian's service in the General Assembly, other than the local school administrative unit in which the child is domiciled, is entitled to attend school in the local school administrative unit of that residence as if the child were domiciled there, subject to the payment of applicable out-of-county fees in effect at the time.

(d) A student domiciled in one local school administrative unit may be assigned either with or without the payment of tuition to a public school in another local school administrative unit upon the terms and conditions agreed to in writing between the local boards of education involved and entered in the official records of the boards. The assignment shall be effective only for the current school year, but may be renewed annually in the discretion of the boards involved.

(e) The boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education.

(f) This section shall not be construed to allow students to transfer from one local school administrative unit to another for athletic participation purposes in violation of eligibility requirements established by the State Board of Education and the North Carolina High School Athletic Association.

(g) Any local school administrative unit may use the actual address of a program participant for any purpose related to admission or assignment under this Article as long as the address is kept confidential from the public under Chapter 15C of the General Statutes. The substitute address designated by the Attorney General under the Address Confidentiality Program shall not be used as an address for admission or assignment purposes.

(h) The following definitions apply in this section:

- (1) Abused or neglected. - A student is considered abused or neglected if there has been an adjudication of that issue. The State Board may adopt an additional definition of abuse and neglect, and that definition also shall apply to this section.
- (2) Caregiver adult. - The adult with whom the child resides. For children placed or assigned in a licensed facility, a caregiver adult also may be the child's caretaker, foster parent, or other clearly identifiable adult who resides in the county where the licensed facility is located.
- (3) Educational decisions. - Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate

action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

- (4) Facility. - A group home, a family foster home as defined in G.S. 131D-10.2(8), or a therapeutic foster home as defined in G.S. 131D-10.2(14).
- (5) Homeless. - Individuals who lack a fixed, regular, and adequate nighttime residence or are included in the definition of homeless children and youths in the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The term does not include persons who are imprisoned or otherwise detained pursuant to federal or State law.
- (6) Legal custodian. - The person or agency that has been awarded legal custody of the student by a court.
- (7) Licensed facility. - A facility licensed under Article 2 of Chapter 122C of the General Statutes or under Article 1A of Chapter 131D of the General Statutes.
- (8) McKinney-Vento Homeless Education Assistance Improvements Act of 2001. - 20 U.S.C. § 11431, et seq., as amended, and federal regulations adopted under this act.
- (9) Program participant. - An individual accepted into the Address Confidentiality Program under Chapter 15C of the General Statutes.
- (10) Unaccompanied youth. - Youths who are not in the physical custody of a parent or guardian as defined in the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. (1955, c. 366, s. 1; c. 1372, art. 19, s. 3; 1956, Ex. Sess., c. 7, s. 1; 1971, c. 153; 1981, c. 423, s. 1; c. 567, s. 1; 1991, c. 407, s. 1; c. 719, s. 2; 1997-271, s. 1; 1997-443, s. 8.29(d); 2002-171, s. 5; 2006-65, s. 1; 2007-283, s. 1; 2008-185, s. 2; 2008-187, s. 19; 2009-331, ss. 1, 2; 2011-282, s. 12; 2013-410, s. 21.)

North Carolina Indian Affairs

§ 143B-139.5A. Collaboration between Division of Social Services and Commission of Indian Affairs on Indian Child Welfare Issues.

The Division of Social Services, Department of Health and Human Services, shall work in collaboration with the Commission of Indian Affairs, Department of Administration, and the North Carolina Directors of Social Services Association to develop, in a manner consistent with federal law, an effective process through which the following can be accomplished:

- (1) Establishment of a relationship between the Division of Social Services and the Indian tribes set forth in G.S. 143B-407(a), either separately or through a central entity, that will enable these tribes, in general, and tribal councils or other tribal organizations, in particular, to receive reasonable notice of identified Indian children who are being placed in foster care or adoption or who otherwise enter the child protective services system, and to be consulted on policies and other matters pertinent to placement of Indian children in foster care or adoption.
- (2) Agreement on a process by which North Carolina Indians might be identified and recruited for purposes of becoming foster care and adoptive parents.

- (3) Agreement on a process by which the cultural, social, and historical perspective and significance associated with Indian life may be taught to appropriate child welfare workers and to foster and adoptive parents.
- (4) Identification or formation of Indian child welfare advocacy, placement and training entities with which the Department of Health and Human Services might contract or otherwise form partnerships for the purpose of implementing the provisions of this act.
- (5) Development of a valid and reliable process through which Indian children within the child welfare system can be identified.
- (6) Identify the appropriate roles of the State and of Indian tribes, organizations and agencies to ensure successful means for securing the best interests of Indian children. (2001-309, s. 1.)

State Child Fatality Review Team

§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers; duties; report by Division of Social Services.

(a) There is established in the Department of Health and Human Services, Division of Social Services, a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality. Steps in this in-depth review shall include interviews with any individuals determined to have pertinent information as well as examination of any written materials containing pertinent information.

(b) The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities. These findings shall not be admissible as evidence in any civil or administrative proceedings against individuals or entities that participate in child fatality reviews conducted pursuant to this section. The State Child Fatality Review Team shall consult with the appropriate district attorney in accordance with G.S. 7B-2902(d) prior to the public release of the findings and recommendations.

(c) The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

(d) The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. The State Child Fatality Review Team may receive a copy of any reviewed materials necessary to the conduct of the fatality review. Any member of the State Child Fatality Review Team may share,

only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

If the State Child Fatality Review Team does not receive information requested under this subsection within 30 days after making the request, the State Child Fatality Review Team may apply for an order compelling disclosure. The application shall state the factors supporting the need for an order compelling disclosure. The State Child Fatality Review Team shall file the application in the district court of the county where the investigation is being conducted, and the court shall have jurisdiction to issue any orders compelling disclosure. Actions brought under this section shall be scheduled for immediate hearing, and subsequent proceedings in these actions shall be given priority by the appellate courts.

(e) Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of closed sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any executive session shall be sealed from public inspection.

(f) All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(g) Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

(h) Repealed by Session Laws 2013-360, s. 12A.8(f), effective July 1, 2013. (1998-202, s. 13(oo); 1998-212, s. 12.22(e); 1999-190, s. 4; 2000-67, s. 11.14(a); 2003-304, s. 6; 2013-360, s. 12A.8(f).)

Residency of Minors for Social Services Purposes

§ 153A-257. Legal residence for social service purposes.

(a) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or

medical care program offered by the county or (ii) for other social services required by the person.

Legal residence in a county is determined as follows:

- (1) Except as modified below, a person has legal residence in the county in which he resides.
- (2) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.
- (3) A minor has the legal residence of the parent or other relative with whom he resides. If the minor does not reside with a parent or relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he has the legal residence of the person with whom he resides. Any other minor has the legal residence of his mother, or if her residence is not known then the legal residence of his father; if his mother's or father's residence is not known, the minor is a legal resident of the county in which he is found.

(b) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

(c) This section is intended to replace the law defining "legal settlement." Therefore any general law or local act that refers to "legal settlement" is deemed to refer to this section and the rules contained herein.

(d) If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect, or dependency case, any one of the county departments of social services may refer the issue to the Department of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question. (1777, c. 117, s. 16, P.R.; R.C., c. 86, s. 12; Code, s. 3544; Rev., s. 1333; C.S., s. 1342; 1931, c. 120; 1943, c. 753, s. 2; 1959, c. 272; 1973, c. 822, s. 1; 2003-304, s. 7.)

Criminal Records Checks on Foster and Adoptive Parents

§ 131D-10.3A. Mandatory criminal checks.

(a) Effective January 1, 1996, in order to ensure the safety and well-being of any child placed for foster care in a home, the Department shall ensure that the criminal histories of all foster parents, individuals applying for licensure as foster parents, and individuals 18 years of age or older who reside in a family foster home, are checked and, based on the criminal history check, a determination is made as to whether the foster parents, and other individuals required to be checked, are fit for a foster child to reside with them in the home. The Department shall ensure that, as of the effective date of this Article, all individuals required to be checked are checked for county, state, and federal criminal histories.

(b) The Department shall ensure that all individuals who are required to be checked pursuant to subsection (a) of this section are checked upon relicensure for county and State criminal histories.

(c) The Department shall prohibit an individual from providing foster care by denying or revoking the license to provide foster care if an individual required to submit to a criminal history check pursuant to subsection (a) of this section has a criminal history. The Department may prohibit an individual from providing foster care by denying or revoking the license to provide foster care if the Department determines that the safety and well being of a child placed in the home for foster care would be at risk based on other criminal convictions, whether felony or misdemeanor.

(d) The Department of Public Safety shall provide to the Department the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(e) At the time of application, the individual whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

"NOTICE

MANDATORY CRIMINAL HISTORY CHECK

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS 18 YEARS OF AGE OR OLDER WHO RESIDE IN A LICENSED FAMILY FOSTER HOME.

"Criminal history" includes any county, State, and federal conviction of a felony by a court of competent jurisdiction or pending felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have a foster child reside with you, you shall have the opportunity to complete or challenge the accuracy of the information contained in the SBI or FBI identification records.

If licensure is denied or the foster home license is revoked by the Department of Health and Human Services as a result of the criminal history check, if you are a foster parent, or are applying to become a foster parent, you may request a

hearing pursuant to Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

Refusal to consent to a criminal history check is grounds for the Department to deny or revoke a license to provide foster care. Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

(f) The Department shall notify in writing the foster parent and any person applying to be licensed as a foster parent, and that individual's supervising agency of the determination by the Department of whether the foster parent is qualified to provide foster care based on the criminal history of all individuals required to be checked. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of an individual's criminal history to the foster parent or any other individual required to be checked. The Department shall also notify the individual of the individual's right to review the criminal history information, the procedure for completing or challenging the accuracy of the criminal history, and the foster parent's right to contest the Department's determination.

A foster parent who disagrees with the Department's decision may request a hearing pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(g) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(h) There is no liability for negligence on the part of a supervising agency, or a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(i) The Department of Public Safety shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section. (1995, c. 507, s. 23.26(b); 1997-140, s. 2; 1997-443, ss. 11A.89, 11A.118(a); 2003-304, s. 4; 2007-276, ss. 12, 13; 2014-100, s. 17.1(fff).)

§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive parents seeking to adopt a minor who is in the custody or placement responsibility of a county department of social services and mandatory preplacement criminal checks of all individuals 18 years of age or older who reside in the prospective adoptive home.

(a) The Department shall ensure that the criminal histories of all prospective adoptive parents seeking to adopt a minor who is in the custody or placement responsibility of a county

department of social services and the criminal histories of all individuals 18 years of age or older who reside in the prospective adoptive home are checked prior to placement and, based on the criminal history, a determination is made as to the prospective adoptive parent's fitness to have responsibility for the safety and well-being of children and whether other individuals required to be checked are fit for an adoptive child to reside with them in the home. The Department shall ensure that all individuals required to be checked are checked prior to placement for county, state, and federal criminal histories.

(b) A county department of social services shall issue an unfavorable preplacement assessment to a prospective adoptive parent if an individual required to submit to a criminal history check pursuant to subsection (a) of this section has a criminal history. A county department of social services shall issue an unfavorable preplacement assessment to a prospective adoptive parent if the county department of social services determines, pursuant to G.S. 48-3-303(e), that, based on other criminal convictions, whether felony or misdemeanor, the prospective adoptive parent is unfit to have responsibility for the safety and well-being of children or other individuals required to be checked are unfit for an adoptive child to reside with them in the home.

histories

(c) The Department of Public Safety shall provide to the Department of Health and Human Services the criminal history of any individual required to be checked under subsection (a) of this section as requested by the Department and obtained from the State and National Repositories of Criminal Histories. The Department shall provide to the Department of Public Safety, along with the request, the fingerprints of any individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of any individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) At the time of the request for a preplacement assessment or at a subsequent time prior to placement, any individual whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

"NOTICE

MANDATORY CRIMINAL HISTORY CHECK: NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED PRIOR TO PLACEMENT ON PROSPECTIVE ADOPTIVE PARENTS SEEKING TO ADOPT A MINOR WHO IS IN THE CUSTODY OR PLACEMENT RESPONSIBILITY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES AND ON ALL PERSONS 18 YEARS OF AGE OR OLDER WHO RESIDE IN THE PROSPECTIVE ADOPTIVE HOME.

"Criminal history" means a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault,

battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well being of children or have an adoptive child reside with you, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If the prospective adoptive parent is denied a favorable preplacement assessment by a county department of social services as a result of a criminal history check as required under G.S. 48-3-309(a), the prospective adoptive parent may request a review of the assessment pursuant to G.S. 48-3-308(a).

Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor."

Refusal to consent to a criminal history check by any individual required to be checked under G.S. 48-3-309(a) is grounds for the issuance by a county department of social services of an unfavorable preplacement assessment. Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

(e) The Department shall notify the prospective adoptive parent's supervising county department of social services of the results of the criminal history check. In accordance with the federal and State law regulating the dissemination of the contents of the criminal history file, the Department shall not release or disclose any portion of an individual's criminal history to the prospective adoptive parent or any other individual required to be checked. The Department, however, shall ensure that the prospective adoptive parent or any other individual required to be checked is notified of the individual's right to review the criminal history information, the procedure for completing or challenging the accuracy of the criminal history, and the prospective adoptive parent's right to contest the preplacement assessment of the county department of social services.

A prospective adoptive parent who disagrees with the preplacement assessment of the county department of social services may request a review of the assessment pursuant to G.S. 48-3-308(a).

(f) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There is no liability for negligence on the part of a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(h) The Department of Public Safety shall perform the State and national criminal history checks on prospective adoptive parents seeking to adopt a minor in the custody or placement

responsibility of a county department of social services and all individuals 18 years of age or older who reside in the prospective adoptive home and shall charge the Department of Health and Human Services a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section. (1998-229, s. 15; 2005-114, s. 1; 2007-276, ss. 9, 10; 2014-100, s. 17.1(o).)

Other Statutory References

This manual includes sections containing most of the statutes relevant to child welfare in North Carolina. Occasionally, however, you may also need to consult the following, which are available on the Internet, at your county law library, and at your local law school library.

Chapter 14, Article 26 (Offenses against Public Morality and Decency)

Chapter 35, Article 7 (Sterilization Procedures)

Chapter 48 (Adoption)

Chapter 49 (Bastardy)

Chapter 50 (Divorce and Alimony, regarding custody and support provisions)

Chapter 50A (Uniform Child-Custody Jurisdiction and Enforcement Act)

Chapter 50B (Domestic Violence)

G.S. § 51-2.1 (Underage marriage)

Chapter 110, Article 9 (IV-D child support)

Chapter 90, Article 1A (Medical Treatment of Minors)

Chapter 108A (Social Services)

G.S. §131D-10.1 to §131D-10.9 (Licensing of Facilities)

G.S. §143B-153 to §143B-156 (Social Services Commission)

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CHAPTER 70 – CHILDREN'S SERVICES

SUBCHAPTER 70A – PROTECTIVE SERVICES

SECTION .0100 - GENERAL

10A NCAC 70A .0101 PURPOSE

Rules in this Subchapter govern the provision of protective services for children with funds administered by the Division of Social Services. Included are requirements for the management of the central registry of neglect, abuse, and dependency cases, and requirements which must be met by county departments of social services in carrying out their responsibilities for the protection of children under Chapter 7B of the General Statutes.

*History Note: Authority G.S. 7B-311; 108A-74; G.S. 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. May 1, 2006; September 1, 1994; February 1, 1986; January 1, 1983.*

10A NCAC 70A .0102 CONFIDENTIALITY: CENTRAL REGISTRY: RESPONSIBLE INDIVIDUALS LIST: ABUSE AND NEGLECT CASES

(a) Information submitted by county departments of social services to the central registry of abuse, neglect and dependency cases is confidential except as otherwise required by law. Non-identifying statistical information and general information about the scope, nature and extent of the child abuse, neglect and dependency problem in North Carolina is not subject to this Rule of confidentiality.

(b) Access to the central registry of child abuse, neglect and dependency cases is restricted to:

- (1) staff of the Division of Social Services and staff of the Office of the Secretary of the Department of Health and Human Services who require access in the course of performing duties pertinent to management, maintenance and evaluation of the central registry and evaluation of and research into abuse and neglect cases reported in accordance with Chapter 7B, Article 3. Management of the central registry includes the provision of information on a case by division staff to a North Carolina county department of social services or to an out-of-state social services agency to assure that protective services will be made available to such child and the child's family as quickly as possible to the end that such child will be protected and that further abuse or neglect will be prevented.
- (2) individuals who may receive approval to conduct studies of cases in the central registry. Such approval must be requested in writing to the Director of the Division of Social Services. The written request shall specify and be approved on the basis of:
 - (A) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices in the area of prevention, identification and treatment of child abuse and neglect;

- (B) a description of how the study will be conducted and how the findings will be used;
 - (C) a presentation of the individual's credentials in the area of critical investigation; and
 - (D) a description of how the individual will safeguard information.
- Access shall be denied when in the judgment of the Director the study will have minimal impact on either knowledge or practice.
- (3) the county director in order to identify whether a child who is the subject of an abuse, neglect or dependency investigation has been previously reported as abused or neglected, or whether a child is a member of a family in which a child fatality due to suspected abuse or neglect has occurred in any county in the state. Information from the central registry shall be shared with law enforcement or licensed physicians or licensed physician extenders when needed to assist the county director in facilitating the provision of child protective services to assure that the child and the child's family shall receive protective services as quickly as possible so that such child can be protected and further abuse, neglect or dependency prevented. Information shared from the central registry for child abuse and neglect shall be limited to:
 - (A) the child's name, date of birth, sex, race;
 - (B) the county that investigated the report;
 - (C) the type of maltreatment that was reported;
 - (D) the case decision;
 - (E) the date of the case decision;
 - (F) the type of maltreatment found; and
 - (G) the relationship of the perpetrator to the victim child.
 - (4) the Chief Medical Examiner's office and law enforcement in the event of a child fatality and there is a need to determine if their investigation or evaluation should consider child abuse, neglect or dependency as a factor in the death. Information shall be limited to that outlined in Subparagraphs (b)(3)(A) through (G) of this Rule.

(c) Information submitted by county departments of social services to the Responsible Individuals List of abuse and serious neglect cases is confidential except as otherwise required by law. The Responsible Individuals List shall identify parents, guardians, caretakers or custodians who have been identified as responsible individuals in substantiated cases of abuse or serious neglect. Information from this list shall be used exclusively for the purpose of determining current or prospective employability or fitness to care for or adopt children.

(d) Requests for information from the Responsible Individuals List shall be in writing and shall include a last name, first name, middle initial, date of birth, gender and social security number of the individual to be checked.

(e) Authorized persons, as defined in 10A NCAC 70A .0104(b)(1), must inform responsible individuals if the reason they are being denied is due to information obtained from the Responsible Individuals List.

*History Note: Authority G.S. 7B-311; 143B-153;
Eff. February 1, 1976;
Readopted October 31, 1977;*

*Amended Eff. June 1, 1990; January 1, 1983;
Temporary Amendment Eff. July 10, 1991, For a Period of 180 Days to Expire on
January 5, 1992;
Amended Eff. May 1, 2006; July 1, 1993; December 1, 1991.*

10A NCAC 70A .0103 REPORTS OF NEGLECT, ABUSE OR DEPENDENCY

(a) Reports of neglect, abuse, or dependency shall be referred to another county department of social services for investigation when the alleged perpetrator is an employee of the county department of social services, a foster parent supervised by that county department of social services, a member of the Board of Social Services for that county, or a caretaker in a sole-source contract group home or agency-operated day care facility.

(b) When in the professional judgment of the county director the agency would be perceived as having a conflict of interest in the conduct of other child protective service investigations, the director may request that another county conduct the investigations.

*History Note: Authority G.S. 143B-153;
Eff. January 27, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. September 1, 1994; July 1, 1993; June 1, 1990.*

10A NCAC 70A .0104 DEFINITIONS

(a) Definitions relating to child abuse, neglect and dependency are found in G.S. 7B-101.

(b) Unless otherwise noted, the following definitions have the following meaning:

- (1) "Authorized persons" means persons authorized to receive data from the Responsible Individuals List. Individuals authorized to receive information from the Responsible Individuals List are:
 - (A) individuals whose job functions include administration of the Responsible Individuals List and provision of information from the List to other authorized persons, as identified by the Director of the North Carolina Division of Social Services;
 - (B) individuals as identified by the Directors of county Departments of Social Services;
 - (C) individuals as identified by the Director of the Division of Child Development for child caring institutions;
 - (D) any Executive Director or program administrator of a child placing agency licensed by the State of North Carolina or another state or that state's agency;
 - (E) individuals as identified by the Director of the Division of Health Service Regulation for group home facilities;
 - (F) any Executive Director or program administrator of other providers of foster care, child care and adoption services determined by the Department of Health and Human Services;
 - (G) the Administrator for the State Guardian Ad Litem program; and
 - (H) any Executive Director or program administrator of other private or non-profit agencies that care for children.

- (2) "Personal written notice" means delivery in person of the case decision to the responsible individual by the social worker.
- (3) "Serious neglect" means conduct, behavior, or inaction that evidences a disregard of consequences of such magnitude as to constitute an unequivocal danger to a child's health, welfare or safety.

History Note: Authority G.S. 7B-311(d); G.S. 143B-153; Eff. January 1, 1980; Amended Eff. May 1, 2006; April 1, 2003; July 1, 1993; June 1, 1990; November 1, 1985.

10A NCAC 70A .0105 RECEIVING INFORMATION: INITIATING PROMPT INVESTIGATIONS OF REPORTS

- (a) The county director shall receive and initiate an investigation on all reports of suspected child abuse, neglect, or dependency, including anonymous reports:
- (b) The county director shall to the extent possible obtain the following information from the person making the report:
 - (1) The name, address, and actual or approximate age of the juvenile(s);
 - (2) The names and ages of other juveniles residing in the home;
 - (3) The name and address of the juvenile's parent, guardian, or caretaker;
 - (4) The name and address of the alleged perpetrator;
 - (5) The present whereabouts of the juvenile(s) if not at the home address;
 - (6) The nature and extent of any injury or condition resulting from abuse, neglect, or dependency;
 - (7) Other information that the reporter has which might be helpful in establishing the need for protective services, including the names, addresses, and telephone numbers of other individuals who may have information about the condition of the juvenile(s); and
 - (8) The name, address, and telephone number of the person making the report.
- (c) When a county director receives a report of suspected abuse or of criminal maltreatment of a juvenile by a person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall notify the appropriate law enforcement agency in accordance with G.S. 7B-307. The county director shall provide the law enforcement agency with any information obtained from the person making the report as outlined in Subparagraphs (b)(1) through (b)(7) of this Rule. The name, address, and telephone number of the individual making the report, included as Subparagraph (b)(8) of this Rule, may be shared with law enforcement when this information is necessary for law enforcement to perform their duties as related to the report.
- (d) The county director shall initiate an investigation of suspected abuse, within 24 hours after receiving a report. The county director shall initiate an investigation of suspected neglect or dependency within 72 hours after receiving a report, except that investigations of all accepted reports of child abandonment shall be initiated immediately. Initiation of an investigation is defined as having face-to-face contact with the alleged victim child or children. If there is not such face-to-face contact within the prescribed time period, the case record shall contain documentation to explain why such contact was not made and what other steps were taken to assess the risk of harm to the child or children.

(e) When the director is unable to initiate the investigation within the prescribed time period, as indicated in Paragraph (d) of this Rule, because the alleged victim child or children cannot be located, the director shall make diligent efforts to locate the alleged victim child or children until such efforts are successful or until the director concludes that the child or children cannot be located. Diligent efforts shall include, but not be limited to, visits to the child's or children's address at different times of the day and on different days. All efforts to locate the child or children shall be documented in the case record.

(f) When abuse, neglect, or dependency is alleged to have occurred in an institution, in addition to the procedures described in Paragraphs (a) through (e) of this Rule, the county director shall notify the individual who is administratively responsible for on-site operation of the institution in order to solicit the cooperation of the administration of the institution. Notification shall occur within the time frames required in Paragraph (d) of this Rule, and prior to contact with the alleged victim juvenile(s) if the director determines that such notice would not place the alleged victim(s) at risk of further harm.

(g) The county director must have an internal two level review, including at a minimum the worker and the worker's supervisor, prior to making a decision that information received does not constitute a report of abuse, neglect, or dependency.

(h) The county director must establish a process by which the person providing this information may obtain a review of the agency's decision not to accept the information as a report of abuse, neglect, or dependency. The process shall include:

- (1) informing the person providing the information that the agency will not conduct an investigation, the basis for that decision, and their right to and the procedures for obtaining such a review; and
- (2) designating the persons by whom and the manner in which such reviews will be conducted.

*History Note: Authority G.S. 7B-301; 7B-302; 7B-306; 7B-307; 143B-153;
Eff. January 1, 1980;*

*Temporary Amendment Eff. July 10, 1991, For a Period of 180 Days to Expire on
January 5, 1992;*

*Amended Eff. April 1, 2003; September 1, 1994; July 1, 1993; June 1, 1992;
December 1, 1991.*

10A NCAC 70A .0106 CONDUCTING AN INVESTIGATION

(a) The county director shall make an investigation to assess:

- (1) whether the specific environment in which the child or children is found meets the child's or children's need for care and protection; and
- (2) facts regarding the existence of abuse, neglect, or dependency; and
- (3) the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and
- (4) the risk of harm to and need for protection of the child or children.

(b) When the county director receives a report of suspected abuse, neglect, or dependency, the county director shall check the county agency's records and the North Carolina Central Registry of child abuse, neglect, and dependency reports to ascertain if any previous reports of abuse, neglect, or dependency have been made concerning the alleged victim child or children. Central Registry checks are not necessary when the agency has conducted such a check within the

previous 60 days or when the agency is providing continuous child protective services to the family.

(c) Face-to-face interviews with all alleged victim children shall be conducted within statutory time frames, unless there is documentation in the case record to explain why such contact was not made.

(d) There shall be a face-to-face interview with any parent or caretaker with whom the victim child or children reside, unless there is documentation in the case record to explain why such an interview was not conducted. The parent or caretaker shall be interviewed on the same day as the victim child or children unless there is documentation in the case record to explain why such interviews were not conducted.

(e) The investigation shall include a visit to the place where the child or children reside.

(f) There shall be a face-to-face interview with the alleged perpetrator or perpetrators unless there is documentation to explain why such an interview was not conducted.

(g) Any persons identified at the time the report was accepted for investigation as having information concerning the condition of the child or children shall be interviewed in order to obtain any information relevant to the investigation unless there is documentation in the case record to explain why such interviews were not conducted.

(h) The county director shall implement a structured decision making process that includes the following assessments:

- (1) assessment of the immediate safety of the child or children;
- (2) assessment of the future risk of harm to the child or children;
- (3) assessment of the family's strengths and needs;
- (4) documentation of an assessment of all of the information obtained during the investigation;
- (5) documentation of a safety response plan; and
- (6) documentation of the case decision.

(i) When additional information is necessary to complete an investigation, information from the following sources shall be obtained and utilized:

- (1) Professionals or staff at an out-of-home care setting having relevant knowledge pertaining to the alleged abuse, neglect, or dependency;
- (2) Other persons living in the household or attending or residing in the out-of-home care setting;
- (3) Any other source having relevant knowledge pertaining to the alleged abuse, neglect, or dependency; and
- (4) Records; i.e., school, medical, mental health, or incident reports in an out-of-home care setting.

(j) The county director shall exercise discretion in the selection of collateral sources in order to protect the family's or out-of-home care setting's right to privacy and the confidentiality of the report.

(k) Conducting an investigation as outlined in Paragraph (a) of this Rule when the alleged abuse, neglect, or dependency occurred in an institution shall include the following:

- (1) A discussion of the allegation with the individual who has on-site administrative responsibility for the institution;
- (2) A discussion of the procedure to be followed during the investigation;
- (3) The utilization of resources within and without the institution as needed and appropriate; and

- (4) A discussion of the findings with the Administrator of the institution which shall be confirmed in writing by the county director and shall be held confidential by all parties as outlined in 10A NCAC 70A .0113, of this Subchapter.

History Note: Authority G.S. 7B-302; 143B-153;

Eff. January 1, 1980;

Amended Eff. April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993.

10A NCAC 70A .0107 WHEN ABUSE, NEGLECT OR DEPENDENCY IS FOUND

(a) When an investigation reveals the presence of abuse, neglect, or dependency, the social worker who conducted the assessment shall make every effort to provide personal written notice to the following persons or agencies:

- (1) any responsible individual who was alleged to have abused or seriously neglected the child or children;
- (2) any parent or other individual with whom the child or children resided at the time the county director initiated the investigation; and
- (3) any agency with whom the court has vested legal custody.

(b) Personal written notice may be made by a social worker other than the social worker who conducted the assessment under G.S. 7B-302(a), if the social worker who conducted the assessment is unavailable. If the county department of social services is unable to provide the personal written notice to the responsible individual, there shall be documentation of efforts made to deliver the personal written notice to the responsible individual in the case record. In addition to fulfilling the requirements of G.S. 7B-320(b), the personal written notice shall also include:

- (1) a statement informing the responsible individual that employers may access the Responsible Individuals List to determine suitability for employment; and
- (2) a statement informing the responsible individual that the timeframes to request an expunction from the District Attorney or the District Court still apply, even if no notice is received from the Director after the Director has been requested to expunge.

(c) The county director shall complete structured decision making assessments of every family in which an investigation of abuse, neglect or dependency is conducted. The assessment findings shall be used to evaluate the need for services and to develop a case plan.

(d) In all cases in which abuse, neglect, or dependency is found, the county director shall determine whether protective services are needed and, if so, shall develop, implement, and oversee an intervention plan to ensure that there is adequate care for the victim child or children.

The case plan shall:

- (1) be based on the findings of the structured decision making assessments;
- (2) contain goals representing the desired outcome toward which all case activities shall be directed; (3) contain objectives that:
 - (A) describe specific desired outcomes;
 - (B) are measurable;
 - (C) identify necessary behavior changes;
 - (D) are based on an assessment of the specific needs of the child or children and family;
 - (E) are time-limited; and

- (F) are mutually accepted by the county director and the client.
 - (4) specify all the activities needed to achieve each stated objective;
 - (5) have stated consequences that will result from either successfully following the plan or not meeting the goals and objectives specified in the plan; and
 - (6) shall include petitioning for the removal of the child or children from the home and placing the child or children in appropriate care when protection cannot be initiated or continued in the child's or children's own home.
- (e) When an investigation leads a county director to find evidence that a child may have been abused or may have been physically harmed in violation of a criminal statute by a person other than the child's parent, guardian, custodian, or caretaker, the county director shall follow all procedures outlined in G.S. 7B-307 in making reports to the prosecutor and appropriate law enforcement agencies. The report shall include:
- (1) the name and address of the child, of the parents or caretakers with whom the child lives, and of the alleged perpetrator;
 - (2) whether the abuse was physical, sexual or emotional;
 - (3) the dates that the investigation was initiated and that the evidence of abuse was found;
 - (4) whether law enforcement has been notified and the date of the notification;
 - (5) what evidence of abuse was found; and
 - (6) what plan to protect the child has been developed and what is being done to implement it.
- (f) When an investigation reveals the presence of abuse, neglect, or dependency in an institution, the county director shall complete the following steps:
- (1) the child's or children's legal custodian shall be informed;
 - (2) an intervention plan for the care and protection of the child or children shall be developed in cooperation with the institution and the legal custodian; and
 - (3) when abuse is found, a written report shall be made to the prosecutor in the county where the institution is located.

History Note: Authority G.S. 7B-302; 7B- 307; 7B- 311; 7B-320(d); 143B-153; Eff. January 1, 1980; Amended Eff. May 1, 2006; April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993; June 1, 1990.

10A NCAC 70A .0108 WHEN ABUSE, NEGLECT OR DEPENDENCY IS NOT FOUND

When a thorough investigation does not reveal abuse, neglect or dependency, the county director shall:

- (1) notify the following persons or agencies of the case finding:
 - (a) any parent or caretaker who was alleged to have abused or neglected the child or children;
 - (b) any parent or other individual with whom the child or children resided at the time the county director initiated the investigation; and
 - (c) any agency with whom the court has vested legal custody;

- (2) communicate to the persons or agencies named in (1) of this Rule that the Department shall no longer be involved with the child or children on a non-voluntary basis.

*History Note: Authority G.S. 7B-300; 7B-302 143B-153;
Eff. January 1, 1980;
Amended Eff. July 1, 1993; June 1, 1990.*

10A NCAC 70A .0109 NOTIFICATION OF REPORTER; REVIEW BY THE PROSECUTOR

(a) Within five working days after receipt of the report of abuse, neglect, or dependency, the director shall give written notice to the person making the report, unless specifically requested not to do so, as to whether the report was accepted for investigation and whether the report was referred to the appropriate State or local law enforcement agency. Within five working days after completion of the protective services investigation, the director shall give subsequent written notice to any identified person or persons making the report, unless specifically requested not to do so. This second notice shall contain the following information:

- (1) whether or not there is a finding of abuse, neglect, or dependency;
- (2) whether the county department of social services is taking action to protect the juvenile, and if so, what action it is taking;
- (3) whether or not the agency has filed a petition; and
- (4) notification of the reporter's right to request a review by the prosecutor if the reporter is not satisfied with the director's decision not to file a petition. The reporter shall be informed that the request must be made within five working days of the notice and must include the prosecutor's address.

(b) When the county director receives a notice from the prosecutor that a review will be held regarding not filing a petition, he shall send immediately, but in all cases within three working days of the receipt of the notice, a copy of the investigation report to the prosecutor.

(c) Within 20 days after the reporter is notified of the right to a review, the prosecutor shall review the director's decision. Upon completion of the review specified in G.S. 7A-547, the prosecutor may:

- (1) affirm the decision of the director;
- (2) request that the appropriate law enforcement agency investigate the allegations; or
- (3) direct the director to file a petition in the matter.

*History Note: Authority G.S. 7A-544; 7A-547; 143B-153;
Eff. January 1, 1980;
Amended Eff. September 1, 1994; July 1, 1993; February 1, 1986.*

10A NCAC 70A .0110 ASSUMING TEMPORARY CUSTODY OF A CHILD

(a) A county department of social services worker may take a child into temporary custody without a court order and provide personal care and supervision for up to 12 hours, provided:

- (1) the county director concludes that there are reasonable grounds for believing the child is abused, neglected, or dependent and that he would be injured or could not be taken into custody if it were first necessary to obtain a court order. The county

director shall document in the protective services case record as soon as possible the following:

- (A) the grounds upon which the decision was made to take temporary custody without a court order; and
 - (B) information specific to successful or unsuccessful attempts to notify the child's parents, guardian or custodian that the child has been taken into temporary custody and that the parent, guardian or custodian has a right to be present with the child pending a determination of the need for non-secure custody.
- (2) the county director files a petition for an immediate non-secure custody order unless he decides that temporary custody is no longer necessary and releases the child to his parents, guardian or custodian. To preserve a parent, guardian or custodian's right to due process, the county director shall not make an assessment case decision until after the court has adjudicated the petition.
- (b) A county director of social services shall file all petitions which allege that a child is abused, neglected or dependent except those petitions resulting from review by the prosecutor.

History Note: Authority G.S. 7B-311; 7B- 403; 7B-404; 7B- 500; 7B-501; 143B-153; Eff. January 1, 1980; Amended Eff. May 1, 2006.

10A NCAC 70A .0111 REVIEW OF COURT ORDERED PLACEMENTS

- (a) In cases where the court removes custody of a child from a parent or caregiver because of dependency, neglect or abuse and places the child in the custody of the Department of Social Services, the county director shall not return the child to his parents or caregivers without the judge finding sufficient facts to show that the child will receive proper care and supervision.
- (b) In any case where custody is removed from a parent, guardian, custodian, or caretaker the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter.
- (c) The county director of social services shall make a timely request to the clerk to calendar each review at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the review and its purpose to the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review.
- (d) The county director shall submit a written report to the judge that shall include but not be limited to:
- (1) The services plan developed with the family to preserve the child's own home or to reunite the parents and children;
 - (2) The specific changes on the part of the parents and children;
 - (3) Whether the child can remain at home or be returned home, and the plan to be used when the child returns home;
 - (4) If the child cannot return home, the plan to be used to establish the permanent living arrangement for the child, including projected time frames and any considerations of termination of parental rights;

- (5) Goals and objectives for the child's continuation in foster care if indicated and the role of foster parents in planning for the child;
- (6) A summary of the child's specific experiences in placement, both positive and negative, including the different placements the child has had since the last court hearing; and
- (7) Any other information the court deems necessary.

*History Note: Authority G.S. 7B 906; 143B-153;
Eff. January 1, 1980;
Amended Eff. April 1, 2003; June 1, 1990.*

10A NCAC 70A .0112 CASE RECORDS FOR PROTECTIVE SERVICES

(a) The county director shall maintain a separate case record or a separate section in a case record on a child for whom protective services are initiated or who is placed in the custody of the county department of social services by the court. The case record documentation shall be kept confidential. Information from the case record shall be released only in accordance with Chapter 7B, Subchapter I, of the North Carolina General Statutes and the Rules of this Subchapter.

(b) The protective services case record shall document the investigation. In addition, when applicable, the protective services case record shall include:

- (1) summary documentation of the results of the check of the central registry of abused, neglected, and dependent children whenever a report is accepted for investigation unless the agency has conducted such a check in the 60 days prior to the new report, or the agency is providing ongoing children's services to the family;
- (2) copies of all comprehensive family assessments, including safety assessments, risk assessments, assessments of family strengths and needs, re-assessments of family strengths and needs and assessments of the child's and family's progress or lack of progress in completing the items documented in the Family Services Case Plan;
- (3) documentation of any safety response plan that was developed to ensure the child's safety during the course of the investigation;
- (4) documentation of the case decision, the basis for the case decision, and the names of those participating in the decision;
- (5) documentation of notifications to parents, caretakers, the alleged perpetrator, or others specified in Rules .0107, .0108, .0109 and .0114 of this Section regarding the case decision;
- (6) documentation of contacts with and services provided to the family, current within seven days of service delivery. Documentation may be taped for transcription, typed or legibly handwritten, and shall include information about the family's response to and use of services, as well as any change in the assessment of safety or risk to the children;
- (7) the Family Services Case Plan developed at the beginning of the treatment phase, with any subsequent revisions to the plan;
- (8) documentation of reviews of the Family Services Case Plan, current within three months, which reflect an assessment of the plan's effectiveness, the family's use of services, and the need for continued agency involvement;

- (9) copies of the following:
 - (A) Intake/Screening Form provided by the Division for all reports concerning the family whether these reports have been received while a case was active or while a case was closed;
 - (B) notices to the reporter;
 - (C) requests made of other county departments of social services for information relating to prior contacts by that agency with the family, when applicable; and
 - (D) DSS 5104, Application/Report to the Central Registry.
- (10) copies of the following reports or documents, when applicable:
 - (A) petitions relating to the legal or physical custody of children while receiving child protective services;
 - (B) reports to the court;
 - (C) reports or notifications to prosecutors;
 - (D) reports to law enforcement agencies;
 - (E) Child Medical Evaluations and Child Mental Health Evaluation requests, consents, and reports;
 - (F) any other medical, psychological, or psychiatric reports;
 - (G) notifications to licensing agencies; and
 - (H) any other reports, notifications, or documents related to the provision of child protective services.
- (11) summaries of the following information, when not otherwise documented in the case record:
 - (A) at the time treatment services begin, a summary of the reasons services are being provided;
 - (B) when filing a petition for custody, the reasons custody is being sought; and
 - (C) at the time treatment services are terminated, a summary of the basis for the decision.

*History Note: Authority G.S. 7B-302; 7B-306; 7B-311; 7B-312; 7B-313; 7B-314; 7B-315; 7B-2901; 143B-153;
 Eff. January 1, 1980;
 Amended Eff. May 1, 2006; April 1, 2003; September 1, 1994; January 1, 1983.*

10A NCAC 70A .0113 CONFIDENTIALITY OF COUNTY DSS PROTECTIVE SERVICES RECORDS

- (a) The county director shall not allow anyone outside of the county department of social services other than state and federal agency personnel carrying out their lawful responsibilities for program audit and review to examine a protective services case record as described in Rule .0112 of this Subchapter unless:
 - (1) the judge orders the county director to allow examination; or
 - (2) the child or the child's attorney requests to examine his own record.
- (b) The county director in carrying out his duties may share information and a summary of documentation from the case record without a court order with public or private agencies or individuals that are being utilized to provide or facilitate the provision of protective services to a child.

(c) The county director shall allow the District Attorney or his designee access to the case record, including any information or documentation therein, which he needs to carry out his mandated responsibilities that result from a report of confirmed abuse or from the county director's decision not to file a petition.

*History Note: Authority G.S. 7B-302; 7B-2901; 143B-153;
Eff. January 1, 1980;
Amended Eff. September 1, 1991.*

10A NCAC 70A .0114 EXPUNCTION PROCESS

(a) Expunction shall be in accordance with G.S. 7B, Article 3A.

(b) During the expunction process, the county Department of Social Services shall continue to provide services to ensure the safety of the children identified as abused or seriously neglected. If the county Department of Social Services is unable to ensure safety, a juvenile petition shall be filed and legal intervention shall be sought.

(c) Once an expunction request by the Director pursuant to G.S. 7B-320, the District Attorney pursuant to G.S. 7B-322, or the District Court pursuant to G.S. 7B-323, has been completed, the Director shall make written notice to the Department of Health and Human Services, directing the Department of Health and Human Services to modify or expunge the Responsible Individuals List, no later than five working days after the decision was made.

*History Note: Authority G.S. 7B-311(d); 143B-153;
Eff. May 1, 2006.*

SECTION .0200 - COMMUNITY CHILD PROTECTION TEAMS

10A NCAC 70A .0201 NATURE AND PURPOSE OF TEAM

(a) Community Child Protection Teams shall be established in every county in the state. Team membership shall consist of representatives of public and nonpublic agencies in the community that provide services to children and their families and other individuals who represent the community. These community representatives shall meet together on a regular basis:

- (1) to identify gaps and deficiencies in community resources which have impact on the incidence of abuse, neglect, or dependency;
- (2) to advocate for system improvements and needed resources where gaps and deficiencies exist in the child protection system;
- (3) to promote collaboration between agencies in the creation or improvement of resources for children as a result of their review of selected cases; and
- (4) to inform the county commissioners about actions needed to prevent or ameliorate child abuse, neglect, or dependency.

(b) The Community Child Protection Team shall not encompass a geographic or governmental area larger than one county.

*History Note: Filed as a Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to
Expire on
January 5, 1992;*

Statutory Authority G.S. 7B-302; 7B-1400; 7B-1401; 7B-1402; 7B-1403; 7B-1404; 7B-1405; 7B-1406; 7B-1407; 7B-1408; 7B-1409; 7B-1410; 7B-1411; 7B-1412; 7B-1413; 7B-1414; 143B-153;

Eff. December 1, 1991;

Amended Eff. September 1, 1994; July 1, 1993.

10A NCAC 70A .0202 RESPONSIBILITY FOR TRAINING OF TEAM MEMBERS

(a) The Division of Social Services shall develop and make available for the team members on an ongoing basis, training materials to include:

- (1) The role and function of the Community Child Protection Team;
- (2) Confidentiality requirements;
- (3) An overview of child protective services law and policy; and
- (4) Team record-keeping.

(b) Each Community Child Protection Team shall schedule relevant training as needed by its membership, using appropriate resources from the local department of social services, other community agencies, the Division of Social Services, or other individuals whose expertise can benefit the functioning of the team.

History Note: Filed as a Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to Expire on

January 5, 1992;

Statutory Authority G.S. 7B-302; 7B-1400; 7B-1401; 7B-1402; 7B-1403; 7B-1404; 7B-1405; 7B-1406; 7B-1407; 7B-1408; 7B-1409; 7B-1410; 7B-1411; 7B-1412; 7B-1413; 7B-1414; 143B-153;

ARRC Objection Lodged July 18, 1991;

Eff. December 1, 1991;

Amended Eff. September 1, 1994.

10A NCAC 70A .0203 CONFIDENTIALITY

(a) Any member of a Community Child Protection Team may share, during an official meeting of that team, any information available to that member that the team needs to carry out its responsibilities. The county director, however, shall not share any information that discloses the identity of individuals who have reported suspected abuse, neglect, or dependency to the county department of social services.

(b) Each member of a Community Child Protection Team and invited participant shall sign a statement indicating their understanding of and adherence to confidentiality requirements. Such statement shall include the possible civil or criminal consequences of any breach of confidentiality as well as the applicability of these Rules to any personal files created or maintained by any team member or invited participant.

(c) A team member or invited participant who fails to comply with the confidentiality requirements of this Section shall be subject to dismissal from the team or to the denial of future participation in team reviews respectively.

(d) Information generated by an executive session of a Community Child Protection Team shall be accessible for administrative purposes to the following:

- (1) the State Team and the Task Force during its existence as necessary to carry out their purposes;

- (2) staff of the Division of Social Services and staff of the Office of the Secretary of the Department of Human Resources who require access in the course of performing duties pertinent to the supervision and evaluation of the Child Protective Services Program;
- (3) the local board of county commissioners when the Community Child Protection Team makes its annual recommendations, if any, for system improvements and needed resources where gaps and deficiencies exist in the delivery of services to children and their families. Such report shall be general in nature not revealing confidential information about children and families; and
- (4) the local board of social services when receiving a report by the director of the county department of social services on the activities of the Community Child Protection Team.

This does not preclude any agency representative from sharing with his agency, on a need to know basis, information acquired at a Community Child Protection Team meeting regarding a current client or referred case.

(e) An individual may receive approval to conduct a study of the cases reviewed by the Community Child Protection Teams. Such approval must be requested in writing of the Director of the Division of Social Services. The written request shall specify and be approved on the basis of:

- (1) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices in the area of prevention, identification and treatment of child abuse, neglect, dependency, or child fatalities;
- (2) a description of how the study will be conducted and how the findings will be used;
- (3) a presentation of the individual's credentials in the area of critical investigation;
- (4) a description of how the individual will safeguard confidential information; and
- (5) an assurance that no report will contain the names of children and families or any other information that makes children and families identifiable.

Access will be denied when, in the judgment of the director, the study will have minimal impact on either knowledge or practice.

*History Note: Filed as a Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;
Authority G.S. 7A-544; 7A-675; 108A-80; 143-578; 143B-153;
Eff. December 1, 1991;
Amended Eff. September 1, 1994; July 1, 1993; June 1, 1992.*

SUBCHAPTER 70B - FOSTER CARE SERVICES

SECTION .0100 - FOSTER CARE SERVICES - GENERAL

10A NCAC 70B .0101 PURPOSE

The Children's Services Branch develops and carries out either directly or through local agencies a program of foster care services designed to preserve, rehabilitate, unite, reunite, and strengthen families; and to provide substitute care for children who must be temporarily or permanently separated from their natural families.

*History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1982; July 23, 1979.*

10A NCAC 70B .0102 ELIGIBILITY

(a) A county department of social services may determine a child eligible for foster care assistance payments if the following factors are established:

- (1) The child has been removed for any reason from his own home or from the home of a specified relative by a judicial determination and placed in foster care as a result of that determination;
- (2) The placement of the child in foster care has occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of the child and such placement has not been in excess of 90 consecutive days unless there has been a judicial determination by a court of competent jurisdiction (within the first 90 days of such placement) to the effect that such placement is in the best interest of the child. If the voluntary placement agreement is continued for the second 90 day period, a new voluntary placement agreement must be completed and signed by all parties. The agency must file a juvenile petition and a hearing must be held before the end of the second 90 day period, or the child must be returned home;
- (3) Responsibility for care and placement of the child is designated to the county department of social services by either the court order removing him from his home or by the voluntary placement agreement signed by the parent or guardian;
- (4) The child lives in:
 - (A) a foster care facility under the supervision of a county department of social services and licensed by the Department of Health and Human Services;
 - (B) a private child caring institution which is licensed or approved by the Department of Health and Human Services and which is in compliance with Title VI of the Civil Rights Act;
 - (C) a private group home which is licensed or approved by the Department of Health and Human Services and which is in compliance with Title VI of the Civil Rights Act;
 - (D) a foster care facility which is under the auspices of a licensed or approved private child caring institution, provided such foster care services program has been licensed by the Department of Health and Human Services and is in compliance with Title VI of the Civil Rights Act;

- (E) a foster care facility under the supervision of a private child placing agency (including those providing adoption services) and licensed by the Department of Health and Human Services; or
 - (F) a foster care facility located in another state, provided such facility is in compliance with Title VI of the Civil Rights Act and is licensed or approved in the other state, and provided such placement has been approved under the appropriate interstate placement procedure;
- (5) The child is in need of care which is not available in his own home or the home of a relative;
 - (6) The child is less than 18 years of age and is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and may reasonably be expected to complete the program before reaching age 19; or
 - (7) The child is less than 21 years of age and is a full-time student or has been accepted for enrollment as a full-time student for the next school term pursuing a high school diploma or its equivalent, a course of study at the college level; or a course of vocational or technical training designed to fit him for gainful employment.

(b) Court action terminating parental rights shall not render a child ineligible for foster care assistance benefits if that child is otherwise eligible. A child may be eligible for foster care assistance benefits until the final decree of adoption is issued.

*History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
Eff. July 1, 1982;
Amended Eff. April 1, 2003.*

10A NCAC 70B .0103 FOSTER CARE ASSISTANCE PAYMENTS

- (a) Foster care assistance payments include food, and shelter, clothing, personal incidentals, and ordinary and necessary school and transportation expenses.
- (b) County departments of social services may request reimbursement for providing foster care assistance payments to eligible children.

*History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
Eff. July 1, 1982;
Amended Eff. April 1, 2003; June 1, 1990.*

10A NCAC 70B .0104 RELATIONSHIP TO CHILD SUPPORT ENFORCEMENT PROGRAM

- (a) The county director of social services must refer recipients of foster care assistance payment to the child support enforcement program except when the county director of social services determines that a referral is not appropriate because one or more of the following circumstances exists:
 - (1) The establishment of paternity or the securing of support is reasonably anticipated to result in:
 - (A) physical harm to the child;
 - (B) emotional harm to the child;

- (C) physical harm to the foster parent or other caretaker with whom the child is living; or
 - (D) emotional harm to the foster parent or other caretaker with whom the child is living.
 - (2) The child for whom support is sought was conceived as a result of forcible rape or incest.
 - (3) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
 - (4) The parent(s) is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than three months.
 - (5) A parent is already ordered by the court to pay support.
 - (6) The rights of both parents have been terminated by consent or court proceeding and the child may be legally placed for adoption by the county department of social services or a child placing agency.
- (b) The county department's application for foster care assistance payments shall operate to assign to the state and the county in proportionate parts as described in General Statute 110-135 all rights to child support owed or paid for the eligible foster child by his parent.
- (c) The caretaker relative from whose home the child is removed by voluntary placement agreement or court order shall be advised of the assignment of support rights, and shall be asked to sign a statement that he understands the assignment. His refusal to sign, however, shall not render the child ineligible for foster care assistance payments.
- (d) Referral to the county's IV-D agency shall be completed for all foster care assistance cases in which deprivation is caused by absence of a parent, regardless of whether the paternity of a child born out of wedlock has been established.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 110-128 through 141; 143B-153; Eff. July 1, 1982.

10A NCAC 70B .0105 GOALS AND STRATEGIES

- (a) The goal for each fiscal year commencing with the fiscal year which begins on October 1, 2011 is that of all the children in foster care receiving Title IV-E Foster Care Assistance the number of children who remain in foster care in excess of 24 months will decrease by 1.5 percent.
- (b) The following steps shall be taken to achieve the goal stated in (a) of this Rule. The Department of Health and Human Services shall:
- (1) provide a preplacement preventive services program designed to help children remain with their families;
 - (2) provide a post placement reunification services program designed to reunite children with their families in a timely fashion;
 - (3) maintain a statewide information system;
 - (4) insure that there is an individual case plan for each child in foster care;
 - (5) insure that the status of each child is reviewed no less frequently than once every six months;
 - (6) institute procedural safeguards to assure each child of a dispositional hearing in accordance with statutory requirements; and

- (7) institute procedural safeguards with respect to parental rights to be informed of changes in the child's placement and to visit the child.

*History Note: Authority G.S. 108A-49; 143B-153; P.L. 96-272;
Temporary Rule Eff. October 1, 1982, for a Period of 92 Days to Expire on
January 1, 1983;
Eff. January 1, 1983;
Amended Eff. October 1, 2011; June 1, 1990.*

SECTION .0200 - RESOURCE ITEMS TO SUPPORT SCHOOL PARTICIPATION

10A NCAC 70B .0201 DEFINITIONS FOR SCHOOL PARTICIPATION RESOURCE ITEMS

As used in this Section, unless the context requires otherwise, the following terms shall have the meanings specified:

- (1) "Fees for membership in school sponsored extracurricular activities" means fees or dues required for membership clubs and activities such as music, language, vocational or athletic clubs, honor societies, etc.
- (2) "Foster child" means an individual under age 21 years of age who is living in a licensed or approved foster family home or foster care facility and who is receiving foster care services.
- (3) "Participation in school" means the pursuit of a high school diploma, an academic degree, or a competency in a vocation or trade.
- (4) "School" means public and private schools and educational programs covering grades kindergarten through 12; technical institutes, and community colleges; Institutions of higher education whose curriculum is directed toward education beyond the high school level; and vocational and trade schools.
- (5) "Special clothes" mean clothes such as gym suits, lab coats, band uniforms and other clothes which are required in order for a student to participate in certain courses as dictated by the school or in school sponsored athletic programs and other school sponsored extracurricular activities. Special clothes may be rented or purchased. Special clothes do not include regular clothing needed by individuals whether or not they are attending school.
- (6) "Supplies" mean notebooks, writing paper, pens, pencils, etc., which every student is expected to have to equip him to participate successfully in classroom and homework assignments, supplies or equipment as dictated by specified courses, an individual teacher or instructor, and other items needed to support a foster child's participation in school.

*History Note: Authority G.S. 108A-25; 108A-48; 143B-153;
Eff. July 23, 1979;
Amended Eff. June 1, 1990.*

10A NCAC 70B .0202 REIMBURSEMENT FOR SCHOOL PARTICIPATION RESOURCE ITEMS

(a) At county option, the following resource items may be reimbursed in order to support a foster child's participation in school:

- (1) fees for membership in school sponsored extracurricular activities, except that the cost of membership in organizations and activities which may take place at school but which are sponsored by outside groups are not reimbursable;
- (2) special clothes;
- (3) supplies.

(b) The county department of social services with placement authority must authorize the provision of the resource items.

(c) Resource items may be purchased or rented through either the cash or vendor payment method.

(d) Reimbursement for allowable foster care services resource items may be claimed in accordance with instructions issued by the controller, in the form of manual material or county letters.

*History Note: Authority G.S. 108A-25; 108A-48; 143B-153;
Eff. July 23, 1979;
Amended Eff. June 1, 1990.*

SECTION .0300 – RISK ASSESSMENT

10A NCAC 70B .0301 WHEN TO COMPLETE A RISK ASSESSMENT

(a) For foster care services cases, the county director shall complete a structured risk re-assessment and reunification assessment for all cases in which family reunification is being considered as the permanent plan. If the court has relieved the agency of reunification efforts, completion of a structured risk re-assessment and reunification assessment is no longer required. The findings of the risk re-assessment and reunification assessment shall be used in developing a Family Services Case Plan with the family.

(b) For those cases in which children enter foster care and reunification is the permanent plan, the structured risk re-assessment and reunification assessment shall support the current case plan.

*History Note: Authority G.S. 7B-907; 143B-153;
Eff. August 2, 1994;
Amended Eff. April 1, 2003.*

SUBCHAPTER 70C - INTERSTATE LAWS

SECTION .0100 - INTERSTATE LAWS

10A NCAC 70C .0101 SCOPE

Any sending agency who intends to place a child into or out of North Carolina shall submit a request to the Division of Social Services. The Division has the authority to request supporting or additional information necessary to carry out the purpose and policy of the compact and to require assurance that the placement meets all applicable North Carolina child placement statutes.

*History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990.*

10A NCAC 70C .0102 REQUEST FOR SERVICES IN OTHER STATES

- (a) Upon receipt of a request from a North Carolina agency to send a child to another state, the Children's Services Section shall determine if any of the North Carolina interstate placement laws apply. If the laws do not apply, the request will be forwarded.
- (b) If any of the laws do apply, the Children's Services Section shall review the adequacy of information submitted, shall make appropriate suggestions, and shall transmit the request to the appropriate state.
- (c) The Children's Services Section shall review the information and disposition on the placement resource submitted by the receiving state and shall forward the information to the appropriate agency in North Carolina. If the placement has been approved, the Children's Services Section must be informed of the plans made for the child. If the placement is denied, the Children's Services Section will notify the sending agency.
- (d) The Children's Services Section shall review the progress reports on placement from the receiving state, shall make appropriate suggestions, and shall transmit the report to the sending agency.
- (e) Upon receipt of concurrence that agency supervision is no longer required, the sending agency shall send notification for termination to the Children's Services Section.

*History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990.*

10A NCAC 70C .0103 REQUEST FOR SERVICE IN NORTH CAROLINA

- (a) Upon receipt of an out-of-state request to send a child to North Carolina, the Children's Services Section shall determine if any of the North Carolina interstate laws apply. If the laws do not apply, the request will be forwarded.
- (b) If any of the laws do apply, the Children's Services Section shall review for adequacy of information submitted, shall make appropriate suggestions, and shall forward the request to the appropriate agency.

(c) The Children's Services Section shall review the evaluation of the placement resource and make a disposition regarding placement. The sending state shall inform the Children's Services Section of plans for the child.

(d) The Children's Services Section shall review progress reports, make appropriate suggestions, and transmit all reports to the sending state.

(e) Upon receipt of recommendation that agency or court supervision is no longer required, the sending state must provide written notification for termination including court order.

History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. June 1, 1990.

Indian Child Welfare Act of 1978

(25 U.S.C. Sec. 1901-1963)

Introduction

The Indian Child Welfare Act (ICWA) was enacted in 1978 to establish uniform, nationwide procedures for the handling of Indian child placements in recognition of the importance of the child/tribe relationship and the history of a disproportionate removal of Indian children from their homes with little, if any, deference to Indian culture. Prior to 1978 it is estimated that 25 to 35 per cent of Indian children had been removed from their homes and placed in non-Indian homes.

State recognized tribes not covered by ICWA

ICWA applies only to federally recognized Indian tribes, of which there are over 500. It does not apply to Canadian tribes or to tribes that have only state recognition. In North Carolina, these state recognized tribes or organizations are:

- Coharie Tribe (Sampson and Harnett counties)
- Cumberland County Association for Indian People
- Guilford Native American Association
- Haliwa Saponi Tribe (Warren and Halifax counties)
- Lumbee Tribe (Robeson, Hoke and Scotland counties)
- Meherrin Tribe (Hertford, Bertie, Gates and Northhampton counties)
- Metrolina Native American Association (Mecklenburg county)
- Occaneechi Band of Saponi Nation (Alamance and Orange counties)
- Sappony Tribe (Person county)
- Triangle Native American Society (Wake county)
- Waccamaw Siouan Tribe (Bladen and Columbus counties)

The North Carolina Court of Appeals has held that the burden is on a party who seeks to invoke the protections of ICWA to demonstrate that it applies in a particular case, and allegations of “Indian heritage” will not suffice. In re Williams, 149 NC App 951 (2002); In re C.P., 181 NC App 698 (2007)(parent claimed membership in tribe and was given two continuances while she applied for tribal membership, and the tribe was notified of the proceeding, but had not responded by the time of the hearing. Trial court correctly held ICWA did not apply as she had not met her burden to show it did.) The Court has specifically held that the Lumbee are not a federally recognized tribe, and thus ICWA did not apply in a TPR case involving children who were registered members of the Lumbee Tribe. In re A.D.L., 169 NC App 701 (2005).

While ICWA does not apply to state recognized tribes, G.S. 143B-139.5A was enacted in 2001 to support collaboration between the Division of Social Services, the NC Directors of Social Services Association and the Commission of Indian Affairs. This legislation is meant to create relationships so (1) tribes can receive reasonable notice when Indian children are placed in foster care or for adoption, (2) recruitment of North Carolina Indians as foster and adoptive

parents can be increased, and (3) training on Indian culture and history can be provided to social workers and foster and adoptive parents. It is important to remember that the Multi Ethnic Placement Act (MEPA) applies to the placement of Indian children who are not covered by ICWA.

What proceedings are covered by ICWA?

ICWA applies to child custody proceedings, which include (1) foster care placements (where the parent or Indian custodian cannot have the child returned on demand) (2) TPR proceedings (3) preadoptive and adoptive placements and (4) juvenile court custody or guardianship of the juvenile. ICWA does not apply to placements arising out of delinquency cases (because the act would be a crime if committed by an adult, so placements from undisciplined cases could fall under ICWA) and does not apply to custody decisions arising out of divorce actions.

ICWA only applies to “Indian children”

Even in a child custody proceeding defined above, ICWA only applies to an “Indian child.” An Indian child is defined in Sec. 1903(4) as either 1) a member of a federally recognized tribe or 2) eligible for membership and the biological child of an enrolled member. Each federally recognized tribe decides membership issues, and its determination is conclusive. The only federally recognized tribe based in N.C. is the Eastern Band of the Cherokee, although children from any federally recognized tribe could reside here.

Since only the tribe can determine its membership, and failure to follow ICWA can invalidate the juvenile proceeding, possible Indian children must be identified as soon as possible by notifying the tribe. Remember that G.S. 7B-505 and 7B-506 refer to ICWA when discussing placement of children at the nonsecure custody stage. The Bureau of Indian Affairs has a listing, updated each year, of the appropriate tribal person to receive questions about membership and ICWA proceedings. www.doi.gov/bia/tribalservices.html. See the attached Notice of Inquiry that can be sent to determine the child’s membership in a particular tribe.

The Eastern Band of the Cherokee

The Eastern Band of the Cherokee has about 13,000 enrolled members and is headquartered on the Qualla Boundary, a 56,688 acre tract that lies in Jackson and Swain Counties. There are also some small tracts of tribal lands of approximately 2500 acres in Clay County and 5,500 acres in Cherokee County.

The Eastern Band of the Cherokee is a sovereign nation that is governed by a Constitution that was first enacted in 1827. The Tribe has its own Court System and set of laws.

The Cherokee Family Safety Program is the agency of the Eastern Band of Cherokee that handles the cases that involve the Indian Child Welfare Act. If you think you have a Cherokee Indian child, you can contact the Cherokee Family Safety Program at P.O. Box 666 Cherokee, North Carolina 28719, (828)-359-1520. They can assist you in checking with the enrollment office to determine whether the child is an “Indian child.” If the child is an “Indian child,” then

Cherokee Family Safety will be the representative of the Tribe that will be involved in the case. In some cases, you might experience a delay in getting a response from the Tribe, because Cherokee Family Safety coordinates their activities with the Tribal Attorney's Office, which provides legal services for the tribe in any ICWA case. In cases where there is concurrent jurisdiction, the Tribe may send representatives to the hearings to present the Tribe's position.

The Tribe designates who qualifies as "extended family" for the child and these persons may or may not be related by blood or marriage to the child. They base their kinship on significant involvement in the child's life. Anyone on the Qualla Boundary could be designated as "extended family" for ICWA purposes.

The Tribe has the right to approve all placements and adoptions of the child, even if they do not remove the case to tribal court.

The only new members being added to the Eastern Band of Cherokee Indians are the children of enrolled members. If the parents of a particular child are not enrolled members, then that child will probably not be classified as an "Indian child" under ICWA.

Exclusive tribal court jurisdiction

Exclusive tribal court jurisdiction exists where an Indian child resides on a reservation (even if visiting elsewhere) or is the ward of the tribal court, even if the child does not reside on the reservation. Even if exclusive tribal court jurisdiction exists, a state court may still act in an emergency situation to prevent imminent physical danger or harm to the child, but must then "expeditiously" initiate proceedings under ICWA to transfer the child to tribal jurisdiction.

Concurrent jurisdiction and intervention

In all other cases state and tribal courts have concurrent jurisdiction, but the tribe has the right to intervene at any time, and the only bar to that intervention is that the child is not an Indian child or the tribe is not the child's tribe.

Transfer of ICWA case to tribal court

The parent or the Indian custodian or tribe can petition the state court to transfer jurisdiction to the tribal court. An Indian custodian is an Indian person with legal custody of an Indian child under tribal law or custom or state law by agreement of child's parent.

Sec. 1903. A transfer request must be granted unless (1) either parent objects, including a non-Indian parent, (2) the tribal court declines jurisdiction, or (3) the state court finds "good cause to the contrary," such as:

- Proceeding was at an advanced stage when transfer petition received, and it was not filed promptly after receiving notice of hearing.
- Indian child over 12 years old objects to the transfer.

- Evidence necessary to the case could not be adequately presented in tribal court without undue hardship to the parties or witnesses.
- The parents of a child over 5 years are not available and the child has had little or no contact with the child's tribe or members of the tribe.

Remember – even if the tribe, parent or custodian does not request transfer to tribal court or the tribe does not intervene in the juvenile case, ICWA still applies because the child is an Indian child.

Notice to the tribe, parent and Indian custodian

In any proceeding to which ICWA applies, notice must be given by registered mail, return receipt requested, to the parent, custodian and tribe, along with a copy of the petition. A sample is attached. This notice must include the following information:

- Name of the Indian child and his tribal affiliation
- Name and address of the petitioner and petitioner's attorney
- Location, mailing address and telephone number of the court
- Statement of right of Indian custodian and tribe to intervene and petition for transfer to tribal court
- Statement that if the parent or Indian custodian is unable to afford counsel, the court will appoint counsel
- Statement that the parent, custodian or tribe may request 20 days to prepare for the proceeding
- Statement of the potential legal consequences of an adjudication on future custodial rights of the parent or Indian custodian
- Statement that the proceeding is confidential and should not be revealed except to authorized tribal members

If the identity or location of the Indian parent, Indian custodian or tribe cannot be determined, written notice by certified mail must be sent to the Secretary of the Bureau of Indian Affairs at the appropriate area office. There is no provision for service by publication. The BIA must notify the parents, custodian, or tribe within 15 days or indicate how much additional time may be needed. Under ICWA, "parent" does not include the unwed father where paternity has not been acknowledged or established. Sec. 1903(9).

For NC proceedings, BIA notice should be sent to Gloria York, Indian Child Welfare Services, BIA Eastern Regional Office, 545 Marriott Drive, Suite 700, Nashville, TN 37214. (615) 564-6740. (The BIA Eastern Region stretches from Maine to Florida and west to eastern Oklahoma).

Timing of court proceedings

No removal proceeding may be held sooner than 10 days following the receipt of that notice, and the parent, Indian custodian, or tribe shall be granted, upon request, 20 additional days to prepare. Thus, DSS may have to ask the court to continue a 7-day or other hearing to comply with ICWA. If ICWA requirements are not met, the tribe, Indian custodian or parent can move

to vacate the proceeding and begin again. Sec. 1915.

“Active efforts” required

When a state court is removing a child, the court must find that “active efforts” have been made to provide remedial services to prevent breakup of the Indian family. These are efforts that take into account the social and cultural conditions of the tribe and use the resources of the extended family, tribe and Indian social service agencies, and thus can be more extensive than our “reasonable efforts.”

Standard for removal

The court must also find by clear and convincing evidence that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. Sec. 1912. That finding must be based on testimony from a “qualified expert witness” who is, in priority order, (1) a member of the child’s tribe recognized by tribe knowledge in tribal custom, (2) a lay expert witness with substantial experience in the delivery of family services to Indians and knowledge of tribal child rearing practices, or (3) a professional person having substantial educational and experience in his specialty. The BIA can assist in identifying a qualified expert witness, if requested to do so by a party or the court.

Foster care placement preferences

An Indian child placed in foster care must be in the least restrictive setting which approximates a family and is within reasonable proximity to his home, taking into account any special needs. Preference shall be given, in absence of good cause to the contrary, to a (1) member of child’s extended family, (2) foster home licensed or approved by the child’s tribe, (3) Indian foster home approved by non-Indian authority, and (4) institution approved by the tribe and suitable for the child. Note that the tribe can change these preferences through its governing body at any time.

“Good cause” to deviate from these preferences exists if the parents or child “of sufficient age” so request or the extraordinary needs of the child require another placement or no families meeting the preference criteria can be found after a diligent search.

Termination of parental rights

To terminate parental rights, the state court must make the same findings just discussed, using expert testimony, but the likelihood of damage must be established beyond a reasonable doubt. For a case where a county DSS terminated the parental rights on an Indian child following both NC and IWCA requirements, see In re Bluebird, 105 NC App 42 (1992). Absent good cause to the contrary, the child must be placed for adoption with a member of his extended family, other members of his tribe or other Indian families.

Adoption surrenders

Adoption surrenders of Indian children – whether to agencies or in private adoptions - must be in writing and recorded before a family court judge who certifies in writing that the parent or Indian custodian understood the surrender.

Here are several other important differences between ICWA adoption procedures and NC law.

- Adoption consents may not be given prior to or within 10 days after birth of the child. (NC law allows the father to consent pre-birth and the mother to consent immediately after birth)
- Adoption consents may be revoked at any time for any reason before the final decree, and the child must be returned. (NC law provides for a 7 day revocation period)
- An adoption of an Indian child can be challenged for up to two years for fraud or duress. (NC law allows these challenges if brought within 6 months)
- When an Indian adoptee reaches 18, the court entering the final decree will inform the adoptee of his tribal affiliation and any other information needed to protect rights flowing from tribal membership. (Not addressed in NC law)

There is no explicit requirement to notify the tribe in voluntary surrenders or foster care placements, if it is already known that the child is an Indian child. The state court must provide a copy of a final adoption decree involving an Indian child to the Secretary of BIA, as well as information which shows the name and tribal affiliation of the child, name and address of biological parents (unless they have signed a court affidavit for anonymity), names and addresses of adoptive parents and agency information relating to the adoptive placement.

Jane Thompson
Kirk Randleman
Natalie Bacon

August 2016

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North Carolina Department of Health and Human Services | Division of Social Services
Consent for Release of Confidential Information

If multiple parties and/or agencies will be receiving this information, specify each of the parties and/or agencies below.

I, _____, authorize

_____ to disclose to
(Provider of Confidential Information)

_____ Department of Social Services
(County name)

_____ Judicial District
(Court district number)

_____ Guardian ad Litem Program
(Court district number)

_____ (Other: List specific agency or person(s) or relationship)

the following information:

(Client initials each applicable category)

- _____ My name and other personal identifying information;
- _____ All medical records;
- _____ Substance abuse records, including treatment and diagnoses;
- _____ Mental health records, including treatment plans and diagnoses;
- _____ Assessments _____ (specify type, if necessary);
- _____ Dates that services were provided;
- _____ Recommendations for treatment;
- _____ Progress notes;
- _____ Progress and compliance with treatment;
- _____ Attendance;
- _____ Date of discharge and discharge status;
- _____ Discharge plan;
- _____ All educational records, including those otherwise covered by FERPA (Family Educational Rights and Privacy Act);
- _____ Other _____

This otherwise confidential information will be used for the following purpose(s):
(Client initials each applicable category)

- _____ Monitor my progress or lack of progress in treatment;
- _____ Provide appropriate services and referrals for me;
- _____ Provide appropriate services and referrals for my family;
- _____ Update my Child and Family Team of my progress in treatment;
- _____ Update the Juvenile Court and parties to my juvenile case about my progress in treatment;
- _____ Other _____

For Substance Abuse Clients: I understand that my records are protected under the federal regulations governing [Confidentiality of Alcohol and Drug Abuse Records, 42 CFR Part 2](#), and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that, except for action already taken, I may revoke this consent at any time.

For Mental Health Clients: I understand the contents to be released, the need for the information, and that there are statutes and regulations protecting the confidentiality of authorized information. I also understand that, except for action already taken, I may revoke this consent at any time.

Protected Health Information:

I understand that my health information is protected under the [Health Insurance Portability and Accountability Act of 1996 \(HIPAA\), 45 C.F.R. pts 160 & 164](#), but once this information is disclosed pursuant to this form, it may no longer be protected by HIPAA and further redisclosure may occur. I also understand that I may revoke this consent in writing at any time except to the extent that action has been taken in reliance on the consent.

I understand that generally _____
(Name of Treatment Program)

may not condition my treatment on whether I sign a consent form, but that in certain limited circumstances I may be denied treatment if I do not sign a consent form.

If I do not revoke this consent, it expires automatically as follows:

1. Upon closure of my Child Protective Services/In-Home Services/Out of Home Services case; or
2. One year from the date this consent is signed; whichever occurs first.

_____ Date signed

_____ Client's signature

_____ Date signed


_____ Legally Responsible Person

_____ Client has received a copy of this consent form for his/her records.

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

**PETITION
OBSTRUCTION OF OR INTERFERENCE
WITH JUVENILE INVESTIGATION
(ABUSE/NEGLECT/DEPENDENCY)**

Juvenile's Date Of Birth Age Race Sex

Name Of Petitioner

G.S. 7B-303

Name And Address Of Respondent 1

Name And Address Of Respondent 2

I have sufficient knowledge or information to believe that a case has arisen that invokes the juvenile jurisdiction of the court, and therefore allege that:

1. On or about (date) _____, the Department of Social Services (DSS) of the county named above received a report of abuse, neglect or dependency concerning the juvenile named above, which requires an investigation as set forth in G.S. 7B-303.
2. The name, addresses and telephone numbers of the juvenile's parents, guardian, custodian, or caretaker are as follows:

NAME	RELATIONSHIP OR TITLE	ADDRESS	TELEPHONE

3. Respondent(s), without lawful cause, has obstructed and/or interfered with the investigation. The obstruction and/or interference consists of the following:
 - a. refusal to disclose the whereabouts of the juvenile.
 - b. refusal to allow personal access to the juvenile.
 - c. refusal to allow observation and/or interview of the juvenile in private.
 - d. refusal to allow access to confidential information and/or records after proper request by DSS pursuant to G.S. 7B-303.
 - e. refusal to allow DSS to arrange for an evaluation of the juvenile by a physician or other expert.
 - f. other conduct which makes it impossible for DSS to carry out its duty to investigate: (specifically describe respondent's conduct)

4. There is reason to believe that the juvenile is in need of immediate protection and/or assistance. The basis for that belief is as follows:

(See ADDITIONAL ALLEGATIONS on Reverse)

WHEREFORE, the Petitioner prays for the following relief:

1. That the Court hear this case and determine that the allegations are true.
2. That the Court enter an order directing the respondent(s) to cease obstructing or interfering with the investigation.
3. That the Court issue an immediate ex parte order directing the respondent(s) to cease such obstruction or interference.
4. For such other and further relief as the Court deems just and proper.

VERIFICATION

Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true.

SWORN AND SUBSCRIBED TO BEFORE ME		<i>Signature Of Petitioner</i>
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>	<input type="checkbox"/> <i>Director</i> <input type="checkbox"/> <i>Authorized Representative Or Director</i> _____ <i>County Department Of Social Services</i>
<input type="checkbox"/> <i>Deputy CSC</i>	<input type="checkbox"/> <i>Assistant CSC</i> <input type="checkbox"/> <i>Clerk Of Superior Court</i>	<i>Address</i>
<input type="checkbox"/> <i>Notary</i>	<i>Date My Commission Expires</i>	
SEAL	<i>County Where Notarized</i>	<i>Telephone No.</i>

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name Of Juvenile

JUVENILE SUMMONS
AND NOTICE OF HEARING
(OBSTRUCTION OF OR INTERFERENCE WITH
JUVENILE INVESTIGATION)

G.S. 7B-303

To Each Of The Person(s) Named Below:

Name And Address Of Respondent 1

Name And Address Of Respondent 2

Parent Other (specify) _____

Parent Other (specify) _____

Name And Address Of Other Person To Be Served

Name And Address Of Other Person To Be Served

Parent Other (specify) _____

Parent Other (specify) _____

A petition has been filed alleging that the respondent(s) named above is/are obstructing and/or interfering with an investigation of a report that the juvenile named above is abused, neglected, or dependent, or has died as a result of suspected maltreatment.

SUMMONS AND NOTICE OF HEARING ON PETITION

You are SUMMONED to appear on the date and at the time and location set forth below:

- for a hearing to determine whether the attached ex parte order should be continued or a different order entered.
- for a hearing on the attached petition.

Date Of Hearing

Time Of Hearing

AM PM

Location Of Hearing

Date

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Summons and a copy of the petition were received and served as follows:

RESPONDENT 1

Date Served

Name Of Person To Be Served

- By delivering to the person named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- This person WAS NOT served for the following reason:

RESPONDENT 2

Date Served

Name Of Person To Be Served

- By delivering to the person named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- This person WAS NOT served for the following reason:

OTHER PERSON TO BE SERVED 1

Date Served

Name Of Person To Be Served

- By delivering to the person named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- This person WAS NOT served for the following reason:

OTHER PERSON TO BE SERVED 2

Date Served

Name Of Person To Be Served

- By delivering to the person named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

- This person WAS NOT served for the following reason:

Date Received

Date Of Return

Name Of Sheriff

County

Deputy Sheriff Making Return

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

Date Of Birth

Age

Name Of Petitioner

Name And Address Of Respondent 1

Name And Address Of Respondent 2

EX PARTE ORDER
TO CEASE OBSTRUCTION OF
OR INTERFERENCE WITH
JUVENILE INVESTIGATION

G.S. 7B-303

PROBABLE CAUSE FINDING

From the verified petition filed in this matter

- and from the Court's inquiry of the Director or other representative of the Department of Social Services (DSS) of the county named above,

The Court finds probable cause to believe that:

1. the juvenile named above is at risk of immediate harm and
2. the respondent(s) named above is/are obstructing or interfering with the Director's or other Social Services representative's ability to investigate to determine the juvenile's condition.

Therefore, pursuant to G.S. 7B-303, the Court enters this Order, which is intended to be limited to provisions necessary to enable DSS to conduct an investigation sufficient to determine whether the juvenile is in need of immediate protection or assistance.

ORDER

It is hereby ORDERED AND DECREED that:

1. The respondent(s) named above:

- a. disclose to the DSS the whereabouts of the juvenile named above.
- b. allow representatives of the DSS personal access to the juvenile.
- c. allow representatives of the DSS to observe and interview the juvenile in private.
- d. allow representatives of the DSS access to the following information/records:

- e. allow the DSS to arrange for an evaluation of the juvenile by a physician or other expert.
- f. Other: _____

2. A hearing in this matter be held within ten (10) days to determine whether there is good cause for the continuation of this Order or the entry of a different order.

3. This Order, along with a copy of the petition, summons, and notice of hearing, be served on respondent(s) named above; on the juvenile's parent, guardian, custodian, or caretaker, and on (name anyone else the Court deems to be a necessary party.) _____

Date

Name Of District Court Judge (Type Or Print)

Signature Of District Court Judge

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

Date Of Birth

Age

Name Of Petitioner

Name And Address Of Respondent 1

Name And Address Of Respondent 2

ORDER TO CEASE
OBSTRUCTION OF OR
INTERFERENCE WITH
JUVENILE INVESTIGATION

G.S. 7B-303

This case having been heard before the undersigned judge, the Court finds that the matter is properly before the Court and that the Court has jurisdiction over the subject matter and the parties. The following persons were present at the hearing:

FINDINGS

Based on the evidence presented, the Court finds the following facts by clear, cogent, and convincing evidence:

1. On or about (date) _____, the Department of Social Services (DSS) of the county named above received a report of suspected abuse, neglect, or dependency of the juvenile named above, or a report that the juvenile had died as a result of suspected maltreatment, which report required DSS to conduct an investigation pursuant to G.S. 7B-302. More specifically:

2. On or about [date(s)] _____, the respondent(s) named above obstructed or interfered with DSS's investigation of the report by:

- a. refusing to disclose to DSS the whereabouts of the juvenile.
- b. refusing to allow DSS personal access to the juvenile.
- c. refusing to allow DSS to observe and/or interview the juvenile in private.
- d. refusing to allow DSS access to confidential information/records after a proper request.
- e. refusing to allow DSS to arrange for an evaluation of the juvenile by a physician or other expert.
- f. engaging in other conduct making it impossible for DSS to carry out its duty to investigate.

More specifically:

3. Respondent(s) has/have not established a lawful excuse for the obstruction or interference described above.

4. Other Findings:

ADDITIONAL FINDINGS

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court concludes as a matter of law:

That grounds do do not exist for the issuance of an order under G.S. 7B-303 directing respondent(s) to cease obstructing and/or interfering with an investigation by DSS of suspected abuse, neglect, or dependency, or death by suspected maltreatment, of the above-named child.

ORDER

It is hereby ORDERED AND DECREED that:

- 1. The respondent(s) named above:
 - a. disclose the whereabouts of the juvenile.
 - b. allow representatives of the DSS personal access to the juvenile.
 - c. allow representatives of the DSS to observe and interview the juvenile in private.
 - d. allow representatives of the DSS access to the following information/records:

 - e. allow DSS to arrange for an evaluation of the juvenile by a physician or other expert.
 - f. Other: _____
- 2. That this matter be dismissed.
- 3. Other:

Date	Name Of District Court Judge (Type Or Print)	Signature Of District Court Judge
------	--	-----------------------------------

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name Of Juvenile Determined By Agency To Be Abused Or Seriously Neglected

Name And Address Of Individual Seeking Judicial Review

Date Of Birth Of Individual Seeking Judicial Review

PETITION FOR JUDICIAL REVIEW
RESPONSIBLE INDIVIDUALS LIST

- ABUSE
- SERIOUS NEGLECT

G.S. 7B-323

Pursuant to G.S. 7B-200(a)(9), I seek to invoke the jurisdiction of this Court.

Pursuant to G.S. 7B-323, I file this petition for judicial review of the determination by the Director of the County Department of Social Services of abuse or serious neglect and my identification as a responsible individual.

1. Pursuant to G.S. 7B-320,
 - On (date) _____ I received personal written notice of the results of the investigative assessment and the Director's determination that I abused or seriously neglected the juvenile named above and that my name will be added to the Responsible Individuals List.

OR

2. Pursuant to G.S. 7B-323(e), I became aware that my name was included on the Responsible Individuals List on (date) _____, by _____ and request a judicial review in the interest of justice or for extraordinary circumstances as follows:

3. Pursuant to G.S. 7B-324, I affirm I
 - have not been criminally convicted as a result of this incident.
 - filed this petition for judicial review with this Court within 15 days after receiving the Director's notice.

Optional
 I request that the Court close the hearing to all people except officers of the Court, the parties and their witnesses.

I request the Court to hear the case to determine whether the director can prove by a preponderance of the evidence that I abused or seriously neglected the juvenile and whether my name should be on the Responsible Individuals List.

Date	Name Of Petitioner (Type Or Print)	Signature Of Petitioner
------	------------------------------------	-------------------------

NOTE TO CLERK: Upon the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within 45 days from the date the petition is filed at a session of district court hearing juvenile matters or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of the hearing to the petitioner and to the director who determined the abuse or serious neglect and identified the individual as a responsible individual.

Original-File Copy-Director of County DSS Copy-Petitioner

AOC-J-131, Rev. 10/13
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STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

**ORDER TO APPOINT OR RELEASE
GUARDIAN AD LITEM
AND ATTORNEY ADVOCATE**

G.S. 7B-601, -1108

Name And Address Of Juvenile(s)

Name And Address Of Mother Other (Designate)

Name And Address Of Father Other (Designate)

ORDER OF APPOINTMENT

Pursuant to the authority contained in G.S. 7B-601 or 7B-1108, the following Guardians ad Litem and attorney advocate are appointed to represent the juvenile(s) named above in this proceeding.

Name Of Guardian Ad Litem Volunteer

Name And Address Of Attorney Advocate

Name Of Guardian Ad Litem Program Staff

Address

Attorney Advocate is also acting as Guardian ad Litem.

Telephone No.

Telephone No.

The duties and responsibilities of the Guardian ad Litem program are as follows:

1. To make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs.
2. To facilitate, when appropriate, the settlement of disputed issues.
3. To offer evidence and examine witnesses at adjudication.
4. To explore options with the Court at the dispositional hearing.
5. To conduct follow-up investigations to insure that the orders of the Court are being properly executed.
6. To report to the Court when the needs of the juvenile are not being met.
7. To protect and promote the best interests of the juvenile until formally relieved of responsibility by the Court.

The Guardian ad Litem has the authority to obtain any information or reports, whether or not confidential, that may in the Guardian ad Litem's opinion be relevant to the case. This order includes the release of confidential information subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). 45 C.F.R. 164.512(a), (e). No privilege other than the attorney-client privilege may be invoked to prevent the Guardian ad Litem and the Court from obtaining such information. The confidentiality of the information or reports shall be respected by the Guardian ad Litem and no disclosure of any information or reports shall be made to anyone, except by order of the Court or unless otherwise provided by law.

In addition, the Court orders the following:

ACCOMPANY JUVENILE TO COURT IN CRIMINAL ACTION

The Guardian ad Litem is authorized to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

RELEASE OF GUARDIAN AD LITEM

It is Ordered that the Guardian ad Litem volunteer Guardian ad Litem Program staff is released from duties in this proceeding.

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

RELEASE OF ATTORNEY ADVOCATE

It is Ordered that the attorney advocate is released from duties in this proceeding.

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

**JUVENILE PETITION
(ABUSE/NEGLECT/DEPENDENCY)**

Juvenile's Date Of Birth Age Race Sex

G.S. 7B-101, -400, -402

Name Of Petitioner

Condition Alleged

Abused Neglected Dependent

I have sufficient knowledge or information to believe that a case has arisen that invokes the juvenile jurisdiction of the court, and therefore allege that:

1. The juvenile named above resides in the district at the address shown above, was found in the district as alleged herein, or venue exists pursuant to G.S. 7B-400(a) or (b).
2. The information required by G.S. 50A-209 is set out in the Affidavit As To Status Of Minor Child (AOC-CV-609), which is attached hereto and incorporated herein by reference.
3. The names, addresses, and telephone numbers of the juvenile's parents, guardian, custodian, or caretaker are as follows:

NAME	RELATIONSHIP OR TITLE	ADDRESS	TELEPHONE NO.

4. The juvenile is an abused juvenile, neglected juvenile, or dependent juvenile, as alleged more specifically below: *(Check only the blocks that apply.)*

- A. The juvenile is an **ABUSED JUVENILE**, in that the juvenile's parent, guardian, custodian, or caretaker:
- 1. has inflicted or allowed to be inflicted on the juvenile a serious physical injury by other than accidental means.
 - 2. has created or allowed to be created a substantial risk of serious physical injury to the juvenile by other than accidental means.
 - 3. has used or allowed to be used upon the juvenile cruel or grossly inappropriate devices or procedures to modify behavior.
 - 4. has committed, permitted, or encouraged the commission of a sex or pornography offense with or upon the juvenile in violation of the criminal law.
 - 5. has created or allowed to be created serious emotional damage to the juvenile.
 - 6. has encouraged, directed, or approved of delinquent acts involving moral turpitude committed by the juvenile.
 - 7. has committed or allowed to be committed an offense of human trafficking, involuntary servitude, or sexual servitude against a child.

Specifically, on or about *(date or time period)* _____: *(State facts supporting allegations that the juvenile is an abused juvenile as indicated above. Attach additional pages if necessary.)*

(See reverse side for additional allegations)

- B. The juvenile is a **NEGLECTED JUVENILE**, in that the juvenile:
- 1. does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker.
 - 2. has been abandoned.
 - 3. is not provided necessary medical care.
 - 4. is not provided necessary remedial care.
 - 5. lives in an environment injurious to the juvenile's welfare.
 - 6. has been placed for care or adoption in violation of law.

Specifically, on or about (date or time period) _____: (State facts supporting allegations that the juvenile is a neglected juvenile as indicated above. Attach additional pages if necessary.)

- C. The juvenile is a **DEPENDENT JUVENILE**, in that:
- 1. the juvenile needs assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision.
 - 2. the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.

Specifically, on or about (date or time period) _____: (State facts supporting allegations that the juvenile is a neglected juvenile as indicated above. Attach additional pages if necessary.)

I request the Court to hear the case to determine whether the allegations are true and whether the juvenile is in need of the care, protection, or supervision of the State.

VERIFICATION

Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<i>Name And Address Of Petitioner</i>
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>	
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> District Court Judge <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Magistrate		<i>Signature Of Petitioner</i>
<input type="checkbox"/> Notary	<i>Date My Commission Expires</i>	<i>Telephone No.</i>
SEAL	<i>County Where Notarized</i>	<input type="checkbox"/> Director <input type="checkbox"/> Authorized Representative Of Director _____ County Department of Social Services

WITNESS(ES)

NAME	ADDRESS	TELEPHONE NO.

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:			JUVENILE SUMMONS AND NOTICE OF HEARING (ABUSE/NEGLECT/DEPENDENCY) G.S. 7B-406, -407, -504, -506
Name And Address Of Juvenile			
Date Of Birth	Age	Date Last Summons Issued	<input type="checkbox"/> Alias and Pluries Summons

To Each Of The Person(s) Named Below:

Name And Address	Name And Address
<input type="checkbox"/> Parent <input type="checkbox"/> Other (specify) _____	<input type="checkbox"/> Parent <input type="checkbox"/> Other (specify) _____

A petition has been filed alleging that the juvenile named above is: abused. neglected. dependent.

NOTICE TO PARENT(S) ABOUT THE PARENT'S RIGHT TO A LAWYER

You have a right to be represented by a lawyer at all stages of the proceeding. If you want a lawyer and cannot afford to hire one, the Court will appoint a lawyer to represent you. You may hire a lawyer of your choice at any time, or you may waive the right to a lawyer and represent yourself.

- You may contact the Clerk of Superior Court immediately to ask for a court-appointed lawyer.
- If you want a court-appointed lawyer, you are encouraged to contact immediately the following lawyer who has been temporarily assigned to represent you. At the first hearing, the Court will determine whether you qualify for a court-appointed lawyer. If you do not qualify, the lawyer named below will be released.

Name And Address of Mother's Lawyer	Name And Address of Father's Lawyer
Telephone Number Of Attorney	Telephone Number Of Attorney

NOTICE OF PREHEARING CONFERENCE

- A nonsecure custody order has been entered and the juvenile has been placed in the temporary custody of the Department of Social Services (DSS). You are notified to appear on the date, and at the time and place set forth below for a conference to review the need for continued custody, placement options, visitation, available services, and other issues.

Date Of Conference	Time	Place
	<input type="checkbox"/> AM <input type="checkbox"/> PM	

NOTICE OF HEARING ON NEED FOR CONTINUED NONSECURE CUSTODY

- A nonsecure custody order has been entered and the juvenile has been placed in the temporary custody of the Department of Social Services (DSS). Unless changed at the Prehearing Conference, you are notified to appear on the date, time and place set forth below for a hearing to determine the need for continued custody.

Date Of Hearing On Continued Custody	Time	Place
	<input type="checkbox"/> AM <input type="checkbox"/> PM	

NOTICE OF PRE-ADJUDICATION HEARING

- A juvenile petition has been filed in this matter. You are notified to appear on the date, time, and place set forth below for a pre-adjudication hearing.

Date Of Pre-Adjudication Hearing	Time	Place
	<input type="checkbox"/> AM <input type="checkbox"/> PM	

Original-File Copy-Parent Copy-DSS Attorney Copy-GAL
Copy-Parents Attorney Copy-Attorney Advocate
(Over)

AOC-J-142, Rev. 10/13 (Replaces J-301)
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Legal Aspects of Child Welfare Participant Reference Manual
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SUMMONS AND NOTICE OF HEARING ON PETITION

You are SUMMONED to appear on the date and at the time and place set forth below for a hearing on the attached petition.

Date Of Hearing On Petition	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Place
Date Issued	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
<input type="checkbox"/> ENDORSEMENT This Summons was originally issued on the date indicated above and returned not served. At the request of the petitioner, the time within which this Summons must be served is extended sixty (60) days.		Date Of Endorsement Time <input type="checkbox"/> AM <input type="checkbox"/> PM Signature <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

NOTE: See Important Notices below.

IMPORTANT NOTICES

If the Court determines at the hearing on the petition that the allegations of abuse, neglect or dependency are true, the Court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State. The dispositional order, or a subsequent order, may:

1. remove the juvenile from the custody of a parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care;
2. order the parent to pay child support if custody of the juvenile is placed with someone other than the parent;
3. place legal or physical custody of the juvenile with the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care on the condition that that individual undergo medical, psychiatric, psychological, or other treatment;
4. require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care participate in the treatment;
5. require the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to undergo psychiatric, psychological, or other treatment or counseling;
6. order the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay for treatment that is ordered for the juvenile or that individual;
7. **upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.**

RETURN OF SERVICE

INSTRUCTIONS TO SHERIFF:

This Summons, with a copy of the Petition, any Order For Nonsecure Custody (AOC-J-150) and an Affidavit As To Status Of Minor Child (AOC-CV-609) attached, shall be served immediately upon each of the persons named above, by personally delivering copies to that person.

I certify that this Summons, a copy of the petition, any attached Order For Nonsecure Custody and an Affidavit As To Status Of Minor Child were received and served by personally delivering to each person named below a copy of the same.

Date Served	Name Of Person Personally Served
Date Served	Name Of Person Personally Served
Date Served	Name Of Person Personally Served

I certify that the person(s) named below cannot be found by a diligent effort: *(state reason not found)*

Date Received	Signature Of Deputy Sheriff Making Return
Date Of Return	Name Of Deputy Sheriff Making Return (Type Or Print)
	County Of Deputy Sheriff Making Return

NOTICE TO PARENT, GUARDIAN, CUSTODIAN, OR CARETAKER: *You may be held in contempt of court if, without reasonable cause, you fail to (1) appear at a hearing and (2) bring the juvenile before the Court if the juvenile resides with you. In addition, upon service of this summons on you, the Court obtains jurisdiction over you, and your failure to comply with any order of the Court pursuant to G.S. 7B-904 may cause the Court to issue a show cause order for contempt.*

STATE OF NORTH CAROLINA

Court File No.

_____ County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff

**AFFIDAVIT
AS TO
STATUS OF
MINOR CHILD**

VERSUS

Name And Address Of Defendant

G.S. 50A-209

Name Of Minor Child
Date Of Birth Birthplace

I, the undersigned affiant, being first duly sworn, say that during the past five (5) years the above named minor child has lived as follows:

Period Of Residence		Address	Name Of Person Lived With	Present Address Of Person
From	To			
	Present			

I further say that: (Check those that apply)

I have participated in litigation concerning the custody of the above named child.

Capacity As Participant Name And Address Of Court
Date Of Child Custody Determination Case No.

Details

I have information about a custody proceeding. Examples of custody proceeding include divorce, proceeding related to domestic violence, a protective order, termination of parental rights or adoption that is pending in a court of this or another state and could affect this proceeding.

Name And Address Of Court Details

I know of a person as listed below, who has physical custody or claims to have custody or visitation rights with respect to the above named child.

Name And Address Of Person Physical Custody
 Claimed Custody
 Visitation Rights

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date Signature Of Person Authorized To Administer Oaths Signature Of Affiant

Deputy CSC Assistant CSC Clerk Of Superior Court

Name Of Affiant (Type Or Print)

Notary

Date Commission Expires

Relationship To Above Named Child

SEAL

County Where Notarized

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

ORDER FOR
NONSECURE CUSTODY
(ABUSE/NEGLECT/DEPENDENCY)

Juvenile's Date Of Birth Age Race Sex

G.S. 7B-502 through -505.1, -506

Name And Address Of Parent/Guardian/Custodian/Caretaker

Name And Address Of Parent/Guardian/Custodian/Caretaker

Based upon the verified petition, this Court has jurisdiction over the subject matter of this proceeding and of the person of the juvenile.

- 1. As grounds for the issuance of this Order, the Court finds that there is a reasonable factual basis to believe that the matters alleged in the petition are true, that there are no other reasonable means available to protect the juvenile, and (check one or more)
a. the juvenile has been abandoned.
b. the juvenile has suffered physical injury or sexual abuse.
c. the juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection.
d. the juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment.
e. the parent, guardian, custodian, or caretaker consents to the nonsecure custody order.
f. the juvenile is a runaway and consents to nonsecure custody.

2. Efforts by DSS to prevent or eliminate the need for the juvenile's placement include:

OR

- 3. Efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, and placement of the juvenile in the absence of such efforts was reasonable. (Describe immediate threat of harm.)

4. Based on the above findings, the Court concludes that it is contrary to the juvenile's welfare to remain in the home.

- 5. Based on the (check one or more) petition and request for nonsecure custody, testimony of the petitioner, the Court concludes that a less intrusive remedy than entering private property to take physical custody of the juvenile is not available.

TO ANY LAW ENFORCEMENT OFFICER OR DIRECTOR OF A COUNTY DEPARTMENT OF SOCIAL SERVICES

YOU ARE ORDERED to take physical custody of the above-named juvenile(s) for placement in nonsecure custody and to make due return on this Order. You are also ordered to give a copy of this Order to the juvenile's parent, guardian, custodian, or caretaker named above.

The juvenile(s) shall be placed in nonsecure custody with:

- 1. the Department of Social Services of the county named above. The department may place the juvenile in a licensed foster home, a home otherwise authorized by law to provide temporary residential care, a facility operated by the department, or the following relative's or nonrelative kin's home or other home or facility, which the Court hereby approves:

(Over)

The department is authorized to arrange for, provide, or consent to:

- a. routine medical and dental care or treatment; emergency medical, surgical, psychiatric, psychological, or mental health care or treatment; and testing and evaluation in exigent circumstances.
- b. treatment the medical provider recommends in order to cure, alleviate, or prevent the juvenile from suffering physical harm pursuant to 1(d) set forth above as a ground for nonsecure custody.
- c. a Child Medical Evaluation. The following findings demonstrate the director's compelling interest in having the juvenile evaluated prior to the hearing on the need for continued nonsecure custody:

2. (designate person, if the Court places the juvenile directly, not through DSS) _____

A further hearing to determine the need for continued nonsecure custody, whether with DSS or someone else shall be held:

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Place Of Hearing
-----------------	--	------------------

- 3. The juvenile is a member of a State-recognized tribe. The Department of Social Services shall notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement.
- 4. The Department of Social Services shall make diligent efforts to notify relatives and, if applicable, other persons with legal custody of the juvenile's sibling, of nonsecure custody and subsequent hearings.

TO ANY LAW ENFORCEMENT OFFICER

- (No. 5 on Side One must be checked) YOU ARE AUTHORIZED to enter private property to take custody of the juvenile.
- and you are authorized to make forcible entry at any hour if that is required by exigent circumstances of the case.

Date	Signature Of Judge/Judge's Designee	
Maximum Duration Of Custody	Name Of Judge/Judge's Designee (type or print)	<input type="checkbox"/> Judge <input type="checkbox"/> Judge's Designee

If the person above gives telephonic approval:

Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Name And Title Of Person Receiving Telephonic Approval	Signature Of Person Receiving Telephonic Approval
---	--	---

RETURN ON ORDER

Date Order Received	Date Order Returned
---------------------	---------------------

- 1. The juvenile named in this Order was taken into custody at _____ AM PM, on (date) _____ and taken to _____;
I gave a copy of this Order to the person named below.
- 2. Though diligently sought, the juvenile named in this Order could not be found in this county. (Add any comments or information about the juvenile's possible whereabouts.)

Name Of Person Who Has Personally Received A Copy Of This Order (type or print)	Signature And Title Of Person Making Return
Relationship To Juvenile	Department Or Agency

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:
Name Of Juvenile _____

**ORDER ON NEED FOR
CONTINUED NONSECURE CUSTODY
(ABUSE/NEGLECT/DEPENDENCY)**

G.S. 7B-506

This matter is properly before the Court for a hearing, under G.S. 7B-506, to determine the need for the continued nonsecure custody of the juvenile named above. This Court has jurisdiction over the subject matter of this proceeding and of the person of the juvenile. A Petition was filed and an Order For Nonsecure Custody was entered, as the record shows. Present were:

NAME	RELATIONSHIP OR TITLE	NAME	RELATIONSHIP OR TITLE

FINDINGS

The Court makes the following findings of fact based on clear and convincing evidence: *(attach additional page(s) if necessary)*

- 1. One or both of the juvenile's parents are absent and have not been served. Related facts, including efforts undertaken to identify and/or locate and serve the missing parent(s), include: _____
 - 2. A relative of the juvenile, _____ *(name of relative)*, is willing and able to provide proper care and supervision in a safe home, and placement of the juvenile with this relative would would not be in the juvenile's best interest for the following reasons: _____
 - 3. The juvenile is is not a member of a State-recognized tribe. Nonrelative kin of the juvenile _____ *(name of nonrelative kin)*, is willing and able to provide proper care and supervision in a safe home, and placement of the juvenile with nonrelative kin would would not be in the juvenile's best interest for the following reasons: _____
 - 4. A person with legal custody of a sibling of the juvenile, _____ *(name of person with legal custody)*, is willing and able to provide proper care and supervision in a safe home, and placement of the juvenile with this individual would would not be in the juvenile's best interest for the following reasons: _____
 - 5. There are _____ other juvenile(s) remaining in the home: *(give names and ages)* _____
- Specific findings of the DSS investigation regarding the child(ren) and actions taken or services provided for the child(ren)'s protection include: _____
- 6. a. Efforts by DSS to prevent or eliminate the need for the juvenile's placement include: _____
 - b. Efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, and placement of the juvenile in the absence of such efforts was reasonable.
7. There is is not a reasonable factual basis to believe that the matters alleged in the petition are true, and:
- a. the juvenile has been abandoned.
 - b. the juvenile has suffered physical injury or sexual abuse.
 - c. the juvenile is exposed to a substantial risk of physical injury or abuse because the parent, guardian, custodian, or caretaker has created conditions likely to cause injury or abuse or has failed to provide or is unable to provide adequate supervision or protection.
 - d. the juvenile is in need of medical treatment to cure, alleviate or prevent suffering or serious physical harm which may result in death, disfigurement or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the treatment.
 - e. the parent, guardian, custodian, or caretaker consents to a nonsecure custody order.
 - f. the juvenile is a runaway and consents to nonsecure custody.

AOC-J-151, Rev. 10/15, © 2015 Administrative Office of the Courts (Over)

8. There is is not a reasonable factual basis to believe that no reasonable means other than nonsecure custody are available to protect the juvenile.

9. Efforts undertaken to establish paternity, if at issue in this case, include:

10. Other Findings: _____

CONCLUSIONS OF LAW

Based on the above findings of fact, the Court concludes as a matter of law that:

1. Grounds for continued nonsecure custody under G.S. 7B-503 and G.S. 7B-506 do do not exist.

2. The Department of Social Services:
 a. has made reasonable efforts to prevent the need for the juvenile's placement.
 b. has made reasonable efforts to eliminate the need for the juvenile's placement.
 c. has not made reasonable efforts to prevent and/or eliminate the need for the juvenile's placement.
 d. was precluded, by an immediate threat of harm to the juvenile, from making efforts to prevent and/or eliminate the need for the juvenile's placement.

3. The best interests of the juvenile would be served by continuing the juvenile in the custody of DSS pending a further hearing.

4. Other: _____

ORDER

The Court orders that:

1. Pending further hearings, the juvenile:
 a. shall remain or be placed in the nonsecure custody of:
 the petitioner, Other (name person) _____
for the purposes stated herein, subject to the following conditions: _____

b. shall be returned to the custody of (name person) _____

2. Pending further hearings, the petitioner shall:
 a. make the following efforts to identify and/or locate and serve the missing parent(s):

b. provide or arrange for the following services aimed at eliminating the need for the juvenile's placement or at facilitating the juvenile's placement with a relative: _____

c. notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement.

3. a. With the consent of all parties, further hearings to determine the need for continued nonsecure custody pending the hearing on the petition are waived.

b. A further hearing to determine the need for continued nonsecure custody shall be held:

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Place Of Hearing
-----------------	--	------------------

c. The adjudication hearing on the petition filed in this case shall be held:

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Place Of Hearing
-----------------	--	------------------

4. The Department Of Social Services is authorized to arrange and consent to:
 a. treatment the medical provider recommends in order to cure, alleviate, or prevent the juvenile from suffering physical harm pursuant to 6(d) set forth on the reverse as a ground for nonsecure custody.

b. only the following types of evaluation and/or treatment, after first attempting to obtain consent from the juvenile's parent, guardian, custodian, or caretaker: _____

5. Other: _____

Date	Name Of Judge (type or print)	Signature Of Judge
------	-------------------------------	--------------------

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name And Address Of Juvenile

Juvenile's Date Of Birth

Age

Name Of Movant

MOTION FOR REVIEW
(ABUSE/NEGLECT/DEPENDENCY)

G.S. 7B-1000

I request the Court to hear and further consider the case of the juvenile named above, as to whom the Court is exercising continuing jurisdiction:

- 1. to conduct a 90-day 6-month review pursuant to G.S. 7B-906.1.
- 2. to conduct a permanency planning hearing pursuant to G.S. 7B-906.1.
- 3. to conduct a post-termination of parental rights or relinquishment hearing pursuant to G.S. 7B-908 or 909.
- 4. to determine the obligation of one or both parents to pay a reasonable sum for the support of the juvenile while in the custody of someone other than the parent(s). G.S. 7B-904.
- 5. to review the selection of adoptive parents by the Department of Social Services pursuant to G.S. 7B-1112.1.
- 6. Other:

FACTS AND CIRCUMSTANCES INDICATING NEED FOR REVIEW

As grounds for such motion, the movant shows the Court:

Date

Name Of Movant (Type Or Print)

Signature Of Movant

(Use reverse side for additional Facts and Circumstances.)

(Over)

AOC-J-140, Rev. 10/13 (Replaces J-101)
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ADDITIONAL FACTS AND CIRCUMSTANCES

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name Of Juvenile

**NOTICE OF HEARING
IN JUVENILE PROCEEDING
(ABUSE/NEGLECT/DEPENDENCY)**

G. S. Chapter 7B

To The Persons Named Below:

Juvenile, if age 12 or older

Name And Address

Name And Address

Parent Guardian Custodian Caretaker

Parent Guardian Custodian Caretaker

Name And Address

Name And Address

GAL DSS Foster Parent(s) Other: _____

GAL DSS Foster Parent(s) Other: _____

A hearing will be held at the date, time and location shown below in the above juvenile proceeding:

- 1. to determine the need for continued nonsecure custody. (G.S. 7B-506)
- 2. for adjudication of juvenile petition(s) filed on (date) _____. (G.S. 7B-802)
- 3. for disposition of juvenile petition(s) filed on (date) _____. (G.S. 7B-901)
- 4. to conduct a review pursuant to 7B-906.1. This matter was last reviewed on (date) _____.
Subsequent review is required by law on or before (date) _____.
- 5. to conduct a permanency planning hearing pursuant to G.S. 7B-906.1 to develop or review a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time.
- 6. to conduct a post-termination of parental rights review pursuant to G.S. 7B-908.
- 7. to review the agency's plan for placement pursuant to G.S. 7B-909.
- 8. to determine the obligation of one or both parents to pay a reasonable sum for the support of the juvenile while in the custody of someone other than the parent(s). (G.S. 7B-904)
- 9. to review the selection of adoptive parents by the Department of Social Services pursuant to G.S. 7B-1112.1.
- 10. on the attached Motion.
- 11. Other:

Date Of Hearing

Time Of Hearing

AM PM

Location Of Hearing

Date Notice Issued

Signature

Deputy CSC

Clerk Of Superior Court

Assistant CSC

DSS Attorney

(Over)

AOC-J-141, Rev. 10/13

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Legal Forms

CERTIFICATE OF SERVICE

I certify that this Notice Of Hearing and a copy of any motion or other paper attached hereto were served as follows:

PERSON 1

Date	Name Of Person Served
------	-----------------------

- By depositing a copy enclosed in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as shown on reverse.
- By delivering a copy to the person named above.
- By delivering a copy to the attorney of record for the person named above.
- Other: (specify) _____

Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		<input type="checkbox"/> Moving Party	<input type="checkbox"/> Atty. For Moving Party	<input type="checkbox"/> Other _____

PERSON 2

Date	Name Of Person Served
------	-----------------------

- By depositing a copy enclosed in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as shown on reverse.
- By delivering a copy to the person named above.
- By delivering a copy to the attorney of record for the person named above.
- Other: (specify) _____

Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		<input type="checkbox"/> Moving Party	<input type="checkbox"/> Atty. For Moving Party	<input type="checkbox"/> Other _____

PERSON 3

Date	Name Of Person Served
------	-----------------------

- By depositing a copy enclosed in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as shown on reverse.
- By delivering a copy to the person named above.
- By delivering a copy to the attorney of record for the person named above.
- Other: (specify) _____

Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		<input type="checkbox"/> Moving Party	<input type="checkbox"/> Atty. For Moving Party	<input type="checkbox"/> Other _____

PERSON 4

Date	Name Of Person Served
------	-----------------------

- By depositing a copy enclosed in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as shown on reverse.
- By delivering a copy to the person named above.
- By delivering a copy to the attorney of record for the person named above.
- Other: (specify) _____

Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		<input type="checkbox"/> Moving Party	<input type="checkbox"/> Atty. For Moving Party	<input type="checkbox"/> Other _____

PERSON 5

Date	Name Of Person Served
------	-----------------------

- By depositing a copy enclosed in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as shown on reverse.
- By delivering a copy to the person named above.
- By delivering a copy to the attorney of record for the person named above.
- Other: (specify) _____

Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		<input type="checkbox"/> Moving Party	<input type="checkbox"/> Atty. For Moving Party	<input type="checkbox"/> Other _____

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name Of Juvenile

**MOTION AND ORDER TO SHOW CAUSE
(PARENT, GUARDIAN, CUSTODIAN OR CARETAKER
IN ABUSE/NEGLECT/DEPENDENCY CASE)**

G.S. 5A-23, 7B-407, 7B-904(e)

Name And Address Of Person To Appear

Parent Guardian Custodian Caretaker

I, the undersigned, request the Court to issue an order requiring the person (parent, guardian, custodian or caretaker) named above to appear and show cause why he/she should not be held in civil or criminal contempt.

The Order below is issued on the Court's own motion.

The basis for this Motion is:

1. The failure of the person named above to appear on (date) _____ in obedience to a summons and petition personally served on him/her in this case.

2. The willful failure of the person named above to comply with an order of the Court entered (date) _____, by (describe conduct) _____.

VERIFICATION (Unless Order Entered On Court's Own Motion)

I, the undersigned, being first duly sworn, say that I have read this Motion and the contents are true to my own knowledge, except as to those matters stated upon information and belief, and as to those, I believe them to be true.

SWORN AND SUBSCRIBED TO BEFORE ME

Signature Of Person Making Motion

Date

Name And Title Of Person Making Motion (Type Or Print)

Signature Of Person Authorized To Administer Oaths

Address

Deputy CSC Assistant CSC Clerk Of Superior Court
 Magistrate

City, State, Zip

SEAL Notary

Date My Commission Expires

Telephone No.

ORDER TO APPEAR AND SHOW CAUSE

TO THE PARENT, GUARDIAN, CUSTODIAN OR CARETAKER NAMED ABOVE:

The Court finds probable cause to believe that you are in civil or criminal contempt; therefore, **YOU ARE ORDERED TO APPEAR IN PERSON** on the date and at the time and place shown below to show cause why you should not be held in civil or criminal contempt for the reason stated in the above motion.

Date To Appear

Time To Appear

AM PM

Place To Appear

● If the Court holds you in civil contempt, you may be committed to jail until you satisfy purge conditions set by the Court.

● If the Court holds you in criminal contempt, you may be committed to jail for up to thirty (30) days, ordered to pay a fine, or both.

You are entitled to have a lawyer represent you at the hearing. The Juvenile is not required to appear unless ordered by the Court.

Date

Name Of District Court Judge (Type Or Print)

Signature Of District Court Judge

AOC-J-155, New 11/2000

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(Over)

RETURN OF SERVICE

I certify that this Motion and Order was received and served as follows:

<i>Date Served</i>	<i>Name Of Parent/Guardian/Custodian/Caretaker</i>
--------------------	--

- By delivering to the parent, guardian, custodian or caretaker named above a copy of the Motion and Order.
- By leaving a copy of the Motion and Order at the dwelling house or usual place of abode of the parent, guardian, custodian or caretaker named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copy Left

- Other manner of service *(specify)*

- Person WAS NOT served for the following reason:

<i>Date Received</i>	<i>Name Of Sheriff (Type Or Print)</i>
----------------------	--

<i>Date Of Return</i>	<i>County</i>
-----------------------	---------------

<i>Signature Of Deputy Sheriff Making Return</i>
--

<i>Name Of Deputy Sheriff Making Return (Type Or Print)</i>

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

Name Of Juvenile

ORDER IN CONTEMPT PROCEEDING
(PARENT, GUARDIAN, CUSTODIAN OR CARETAKER
IN ABUSE/NEGLECT/DEPENDENCY CASE)

G.S. 5A-11, 5A-21, 7B-407, 7B-904(e)

Name And Address

- Parent Guardian Custodian Caretaker

NOTE TO CLERK: Black out name of juvenile prior to sending order to sheriff.

This matter was heard before the undersigned judge on an Order to Show Cause why the person (parent, guardian, custodian or caretaker) named above should not be held in civil or criminal contempt.

Based on the evidence, the Court FINDS THE FOLLOWING FACTS beyond a reasonable doubt:

1. The person named above was properly served with an Order to Show Cause on (date) _____.
2. The person named above was present and was represented by counsel. waived his/her right to be represented by counsel.
3. **FAILURE TO COMPLY - CIVIL CONTEMPT.** The person named above willfully fails and refuses to comply with an order of the court entered on (date) _____, in that: (describe conduct)

The order remains in force, and the purpose of the order may still be served by compliance with its terms. The person is able to comply with the order. take reasonable measures that would enable him/her to comply with the order, namely: (describe measures)

4. **FAILURE TO COMPLY - CRIMINAL CONTEMPT.** The person named above willfully failed to comply with an order of the court entered on (date) _____, despite his/her ability to comply. He/she failed to comply in that: (describe conduct)
5. **FAILURE TO APPEAR - CRIMINAL CONTEMPT.** After being personally served with a Summons, the person named above willfully failed to appear in this matter on (date) _____. He/she had the ability to appear and his/her failure to appear was without lawful excuse.
6. Other:

Based on the Findings of Fact, the Court CONCLUDES AS A MATTER OF LAW that:

1. the evidence does not establish that the person named above is in contempt.
2. the person named above is in civil contempt.
3. the person named above is guilty of criminal contempt.
4. Other:

The Court therefore ORDERS that:

NOTE: A person who is found in civil contempt shall not, for the same conduct, be found in criminal contempt. G.S. 5A-12(d), 5A-21(c), 5A-23(g).

1. this Contempt Proceeding be **dismissed**.
2. **CIVIL CONTEMPT.** The person named on the reverse side shall be immediately taken into custody by the sheriff of this county. The person shall remain in custody until he/she purges himself/herself of contempt by complying with the following release conditions: *(specify release conditions)*

When these conditions have been met, the person shall be released. If the person named on the reverse side is not sooner released, the sheriff is ORDERED to produce him/her in court at the date, time and place set out below to review the above conditions.

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Place Of Hearing
-----------------	--	------------------

3. **CRIMINAL CONTEMPT. NOTE TO COURT:** *If suspending a sentence for contempt, impose judgment on form AOC-CR-604. (check all that apply)*
- the person named on the reverse side is hereby censured for contempt.
- the person named on the reverse side shall pay a fine of \$ _____ (*max \$500.00*). shall pay the costs of court.
- the person named on the reverse side shall be imprisoned for a term of _____ days in the custody of the Sheriff.
- Misdemeanant Confinement Program. The person shall be given credit for _____ days' pretrial confinement.
- Work release is recommended.

NOTE TO COURT: *If a finding of criminal contempt was made by a judicial official inferior to a Superior Court Judge, the appeal is to Superior Court. G.S. 5A-17. On appeal from criminal contempt imposing confinement, there must be bail hearing "within a reasonable time period" after confinement is imposed. The contemnor may not be confined more than 24 hours without a bail hearing. See G.S. 5A-17(b) for officials who may conduct the hearing.*

4. Other:

Date	Name Of Judge (Type Or Print)	Signature Of Judge
------	-------------------------------	--------------------

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:

**SUMMONS IN PROCEEDING FOR
TERMINATION OF PARENTAL RIGHTS**
 ALIAS AND PLURIES SUMMONS

G.S. 7B-1106

Name Of Juvenile

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

Name And Address Of Respondent 1

Name And Address Of Respondent 2

Parent (mother) Parent (father) Guardian Custodian
 DSS or other child-placing agency

Parent (mother) Parent (father) Guardian Custodian
 DSS or other child-placing agency

Name And Address Of Respondent 3

Name And Address Of Respondent 4

Parent (mother) Parent (father) Guardian Custodian
 DSS or other child-placing agency

Parent (mother) Parent (father) Guardian Custodian
 DSS or other child-placing agency

TO EACH OF THE RESPONDENT(S) NAMED ABOVE:

You are summoned and notified to answer the attached petition in which the petitioner asks the Court to terminate the parental rights of the above named parent(s) to the above named juvenile. Any written answer to the petition must be filed within thirty (30) days after service on you of this summons and a copy of the petition. A copy of the answer must also be served on the petitioner or his/her lawyer.

The Court will conduct a hearing to determine whether one or more grounds alleged in the petition for terminating parental rights exist. If the Court finds that one or more grounds exist, the Court will proceed at that hearing or a later hearing to determine whether parental rights should be terminated. Notice of the date, time and location of the hearing will be mailed to you by the petitioner after you file an answer or thirty (30) days from the date of service if you do not file an answer.

ADDITIONAL NOTICE TO THE PARENT(S) NAMED ABOVE:

If you do not file a written answer to the attached petition with the Clerk of Superior Court within thirty (30) days, the Court may terminate your parental rights.

You have a right to be represented by a lawyer in this case. If you want a lawyer and cannot afford one, the Court will appoint a lawyer for you. If you are represented by a lawyer appointed previously in an abuse, neglect or dependency case, that lawyer will continue to represent you unless the Court orders otherwise. If you are not represented by a lawyer and want a court appointed lawyer, you are encouraged to contact immediately the following lawyer who has been temporarily assigned to represent you. At the first hearing, the Court will determine whether you qualify for a court-appointed lawyer. If you do not qualify, the lawyer named below will be released. **(NOTE: If a lawyer is appointed for you and if the Court terminates your parental rights, you may become liable for repayment of the lawyer's fees, and a judgment for the amount of the fees may be entered against you.)**

You are entitled to attend any hearing affecting your parental rights. As described above, the petitioner will mail you notice of the date, time, and location of the hearing.

Name And Address Of Mother's Lawyer

Name And Address Of Father's Lawyer

Telephone Number Of Lawyer

Telephone Number Of Lawyer

Name And Address Of Lawyer For Petitioner

Date Summons Issued

Time

AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the petitioner, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Summons, a copy of the petition, and any attached Affidavit As To Status Of Minor Child were received and served by personally delivering to each person named below a copy of the same.

RESPONDENT 1

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 2

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 3

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 4

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the summons and petition.
- By leaving a copy of the summons and petition at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

Date Received _____ Date Of Return _____ County _____

Name Of Sheriff _____ Deputy Sheriff Making Return _____

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

IN THE MATTER OF:		NOTICE OF MOTION SEEKING TERMINATION OF PARENTAL RIGHTS	
Name Of Juvenile		G.S. 7B-1106.1, 7B-1102(b)	
Name And Address Of Respondent 1		Name And Address Of Respondent 2	
<input type="checkbox"/> Parent (mother) <input type="checkbox"/> Parent (father) <input type="checkbox"/> Guardian <input type="checkbox"/> Custodian <input type="checkbox"/> DSS or other child-placing agency <input type="checkbox"/> Guardian ad Litem		<input type="checkbox"/> Parent (mother) <input type="checkbox"/> Parent (father) <input type="checkbox"/> Guardian <input type="checkbox"/> Custodian <input type="checkbox"/> DSS or other child-placing agency <input type="checkbox"/> Guardian ad Litem	
Name And Address Of Respondent 3		Name And Address Of Respondent 4	
<input type="checkbox"/> Parent (mother) <input type="checkbox"/> Parent (father) <input type="checkbox"/> Guardian <input type="checkbox"/> Custodian <input type="checkbox"/> DSS or other child-placing agency <input type="checkbox"/> Guardian ad Litem		<input type="checkbox"/> Parent (mother) <input type="checkbox"/> Parent (father) <input type="checkbox"/> Guardian <input type="checkbox"/> Custodian <input type="checkbox"/> DSS or other child-placing agency <input type="checkbox"/> Guardian ad Litem	

TO EACH OF THE RESPONDENT(S) NAMED ABOVE:

You are notified to respond to the attached motion in which the movant asks the Court to terminate the parental rights of the above named parent(s) to the above named juvenile. Any written response to the motion must be filed within thirty (30) days after service on you of this notice and a copy of the motion. A copy of the response must also be served on the movant or his/her lawyer.

The Court will conduct a hearing to determine whether one or more grounds alleged in the motion for terminating parental rights exist. If the Court finds that one or more grounds exist, the Court will proceed at that hearing or a later hearing to determine whether parental rights should be terminated. Notice of the date, time and location of the hearing and pretrial hearing will be mailed to you by the moving party after you file a response or thirty (30) days from the date of service if you do not file a response.

ADDITIONAL NOTICE TO THE PARENT(S) NAMED ABOVE:

If you do not file a written response to the attached motion with the Clerk of Superior Court within thirty (30) days, the Court may terminate your parental rights.

You have a right to be represented by a lawyer in this case. Any lawyer previously appointed to represent you in this case will continue to represent you unless the Court allows or has allowed that person to withdraw from such representation. If you are not already represented and you want a lawyer and cannot afford one, the Court will appoint a lawyer for you. You may contact the Clerk of Superior Court immediately to ask for a court-appointed lawyer.

(NOTE: If a lawyer is appointed for you and if the Court terminates your parental rights, you may become liable for repayment of the lawyer's fees, and a judgment for the amount of the fees may be entered against you.)

You are entitled to attend any hearing affecting your parental rights. As described above, the moving party will mail you notice of the date, time, and location of the hearing and pretrial hearing.

Name And Address Of Attorney For Movant Or Movant	Date Notice Issued	Time
	<input type="checkbox"/> AM <input type="checkbox"/> PM	
	Signature	
<input type="checkbox"/> Attorney For Movant <input type="checkbox"/> Movant		

NOTE: If service is pursuant to Rule 5, attach a Certificate Of Service.

RETURN OF SERVICE

I certify that this Notice, a copy of the motion, any attached custody order, and any attached Affidavit As To Status Of Minor Child, or any other attachments were received and served by personally delivering to each person named below a copy of the same.

RESPONDENT 1

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the Notice and motion.
- By leaving a copy of the Notice and motion at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 2

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the Notice and motion.
- By leaving a copy of the Notice and motion at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 3

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the Notice and motion.
- By leaving a copy of the Notice and motion at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

RESPONDENT 4

Date Served _____ Name Of Respondent _____

- By delivering to the respondent named above a copy of the Notice and motion.
- By leaving a copy of the Notice and motion at the dwelling house or usual place of abode of the respondent named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left _____

- Respondent WAS NOT served for the following reason:

Date Received _____ Date Of Return _____ County _____
Name Of Sheriff _____ Deputy Sheriff Making Return _____

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

IN RE)
)
)
 NAME AND DOB)
)
)
)
)

PETITION TO TERMINATE
PARENTAL RIGHTS

Now comes the petitioner, the _____ County Department of Social Services, by and through its case worker/director, _____, and alleges that :

1. The petitioner is the _____ County Department of Social Services, with offices located in _____, North Carolina and is authorized to file this petition pursuant to:
 - a. N.C.G.S. § 7B-1103(3) because the Department has been awarded custody of the minor child(ren), _____, by a court of competent jurisdiction. A copy of said custody order dated _____ is attached hereto as Exhibit ___ and is incorporated herein by reference.
 - b. N.C.G.S. § 7B-1103(4) because the minor child(ren), _____, has/have been surrendered to the Department for adoption pursuant to N.C.G.S. § 48-3-701. A copy of the relinquishment for adoption, dated _____, is attached hereto as Exhibit ___ and is incorporated herein by reference.
2. The name of the child as it appears on the child's birth certificate is _____. Said child was born _____ in _____. The child presently resides in _____ County, North Carolina, in foster care under the supervision, direction and custody of the _____ County Department of Social Services.

3. Upon information and belief, the names and addresses of the parents of the minor child(ren) are as follows:

a. Mother: _____

b. Father: _____

4. The name or whereabouts of the _____ of the child, _____, is unknown to the petitioner. Efforts of the petitioner to ascertain the identity or whereabouts of the parent are set forth in an affidavit attached hereto as Exhibit ___ and incorporated herein by reference.

5. The petitioner has no knowledge or information that a person has been appointed guardian of the person of the child pursuant to either N.C.G.S § 7B-600 or Article 1 of Chapter 35A of the General Statutes.

6. Facts sufficient to warrant a determination that one or more grounds for terminating parental rights exist under N.C.G.S. § 7B-1111 are as follows:

a. The _____ of the child has abused and/or neglected the child in that:

On _____, the child was adjudicated to be an abused and/or neglected child within the meaning of N.C.G.S. § 7B-101(15) or 7B-101(1). A copy of said order is attached hereto as Exhibit ___ and incorporated herein by reference.

b. The _____ of the child has willfully left the child in foster care or placement outside the home for more than twelve (12) months without

showing to the satisfaction of the court that reasonable progress under the circumstances has been made within twelve (12) months in correcting those conditions which led to the removal of the juvenile. (Briefly set out date child went into foster care, contacts between parent and child over 12 month period, efforts made by DSS to correct conditions leading to removal and parental response.)

- c. The child has been placed in the custody of the county Department of Social Services, a child-caring institution or licensed child-placing agency, or a foster home and the parent, for a continuous period of six (6) months preceding the filing of this petition, has willfully failed to pay a reasonable portion of the cost of care for the child, although physically and financially able to do so.

Example: Respondent _____ is capable of providing substantial support for said child and has agreed/been ordered to pay \$ _____ per month. During the six (6) months preceding the filing of this petition, respondent _____ paid only \$ _____ in support for said child. The costs of care for said child during that period were approximately \$ _____.

- d. Upon information and belief, said child was born out of wedlock.
_____ is the biological father of said child and he has not, prior to the filing of a petition, established paternity judicially or by affidavit filed in the Department of Health and Human Services central registry or legitimated or petitioned to legitimate said child pursuant to N.C.G.S. § 49-10 or legitimated the child by marrying the mother of the child or provided substantial financial support or consistent care with respect to the child and mother. (Note: Need to have affidavit from DHHS central registry stating father is not on registry. Call (919) 334-1269 for information about obtaining the affidavit.)
- e. The respondent _____ is incapable as a result of mental retardation, mental illness, organic brain syndrome or substance abuse of providing for the proper care and supervision of the child, such that the child is a dependent child within the meaning of N.C.G.S. § 7B-101(9) and there is a

reasonable probability that such incapability will continue for the foreseeable future. (Briefly describe parent's disability, diagnosis, prognosis, and effect on child caring ability.)

- f. The parent has willfully abandoned the child for at least six (6) consecutive months immediately preceding the filing of the petition. (Set out the dates and facts supporting this abandonment.)
 - g. The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the parent's home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; or has committed a felony assault that resulted in serious bodily injury to the child, another child of the parent, or other child residing in the home. (Set out facts of these crimes and court action taken.)
 - h. The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home. (Set out facts regarding prior TPR and present inability or unwillingness of parent to establish a safe home.)
7. The petitioner hereby states that this petition has not been filed to circumvent the provisions of N.C.G.S. Chapter 50A, the Uniform Child Custody Jurisdiction and Enforcement Act.

WHEREFORE, the petitioner prays that the Court conduct a preliminary hearing to ascertain the identity or whereabouts of any unknown parent, that the Court find the existence of one or more grounds for termination of parental rights under N.C.G.S. § 7B-1111 by clear, cogent and convincing evidence and that the parental rights of _____ and _____ to the minor child(ren), _____, be terminated and that the Court grant petitioner such other further relief as the Court may deem just and proper.

This the _____ day of _____ 2010.

Attorney's name, address, and phone number

NORTH CAROLINA

_____ County

_____, being duly sworn, deposes and says she is the social worker/director for the _____ County Department of Social Services assigned to the case of said minor child(ren) named above, that she has read the foregoing petition, that the contents are true of her own knowledge, except as to those matters alleged on information and belief, and as to those matters, believes them to be true.

Signature of Social Worker or Director

SWORN TO AND SUBSCRIBED BEFORE

me this _____ day of _____ 2010.

Signature

My commission expires: _____

Case Name

Case Number

DILIGENT EFFORTS TO LOCATE: _____
name of person(s)

A Checklist for CPS Assessments and CPS In-Home Services

Departments of Social Services are expected to make **diligent efforts** to locate children reported to be abused, neglected, or dependent in order to assess the risk to the alleged victim and to provide treatment to them and to their families. Departments of Social Services are also expected to make **diligent efforts** to locate absent parents. **Diligent efforts** are defined as persistent, relevant attempts to locate the child and his/her family. Departments of Social Services are expected to be creative and flexible in determining the whereabouts of families who are not located by routine means. This checklist includes several of the sources which may assist the social worker in locating or relocating missing families. *This does not take the place of a worker's documentation/case narrative.*

Date(s) Completed	Activity & notes about activity
____/____/____ ____/____/____ ____/____/____	Social worker _____ visited the family's home between name 8:00am and 5:00pm. <i>Notes:</i>
____/____/____ ____/____/____ ____/____/____	Social worker _____ visited the family's home between name 5:00pm and midnight. <i>Notes:</i>
____/____/____	Checked with reporter to get more information on possible whereabouts of the family or addition contact information for the family. <i>Notes:</i>
____/____/____	Searched online phone/address directory websites and social media sites. <i>Print and attach search results.</i>
____/____/____	Reviewed other DSS files, such as previous CPS cases, Medicaid, Food and Nutrition Services, day care services, etc. In addition to information located about the family, make a note of any relatives' or employers' contact information located during this search. <i>Print and attach relevant results.</i> <i>Notes:</i>
____/____/____	Reviewed criminal background checks and DMV (driver's license and car registration) information. <i>Print and attach results.</i>

Case Name

Case Number

____/____/____	Checked with relatives regarding the whereabouts of the family. <i>Notes (include relatives' names and contact information):</i>
____/____/____	Contacted schools and/or day cares attended by any of the children. <i>Notes (include school, contact person, and contact information):</i>
____/____/____	Contacted landlord for information on whereabouts (is the family still living in the home or have they moved out and provided a forwarding address?) <i>Notes:</i>
____/____/____	Checked NC Department of Public Safety Offender Search and Federal Bureau of Prisons site for probation or incarceration status. Also contacted local jails. <i>Print and attach results.</i> <i>Notes:</i>
____/____/____	Other:
____/____/____	Other:
____/____/____	Other:
____/____/____	Other:

CPS Social Worker

Date

CPS Supervisor

Date

STATE OF NORTH CAROLINA

_____ COUNTY

**RELINQUISHMENT OF MINOR FOR ADOPTION BY PARENT
OR GUARDIAN OR GUARDIAN AD LITEM OF THE MOTHER/FATHER**

I, _____, being duly sworn, declare:

1. That I was born on the _____ day of _____, _____, and have a permanent address at _____;

2. That I am of sound mind and in full possession of my mental faculties;

3. That I am the _____
(Mother) (Father) (Guardian)(Guardian ad litem of the Mother/Father pursuant to G.S. 48-3-602)
of _____, a _____ child,
(Original Name of Child – If known) (Sex – If known)

born on the _____ day of _____, _____, [or expected to be born
approximately _____ to _____] in

(City or Town) (County) (State)

4. That I hereby relinquish all rights to said child and surrender said child to _____
[County Social Services] or [Director of _____, a licensed child-placing agency],
whose address is _____; such release being a voluntary
act on my part and without any demand on the part of the director of [social services] [licensed child-placing agency];

5. That I voluntarily consent to the permanent transfer of legal and physical custody of said child to the agency for the purposes of adoption:

- A. with a prospective adoptive parent selected by the agency; or
- B. with a prospective adoptive parent selected by the agency and agreed upon by me, designated as:

6. That this Relinquishment shall be valid and binding and shall not be affected by any oral or separate written agreement between the agency and me;

7. That I understand that when the adoption is final, all of my rights and duties with respect to the minor will be extinguished and all other aspects of my legal relationship with the minor child will be terminated;

8. That I have not received or been promised any money or anything of value for the relinquishment of the minor except for lawful payments that are itemized on a schedule attached to this Relinquishment;

9. That I hereby waive notice of any proceeding for adoption;

10. That I have provided the agency with necessary background information or have signed releases that will permit the agency to compile the information required by G.S. 48-3-205;

DSS-1804 (11/2014)
Child Welfare Services

11. That I have read or had read to me and understood this Relinquishment, been advised that counseling services are available through the agency to which the Relinquishment is given, and have been advised of the right to employ independent legal counsel;

12. That I understand that my Relinquishment to Adoption of the minor may be revoked within 7 days following the day on which it is executed, inclusive of weekends and holidays. If the final day of the period falls on a weekend or a North Carolina or federal holiday, then the revocation period extends to the next business day.

That I understand this is my:

second Relinquishment for placement with the same adoptive parent selected by the agency and agreed upon by me and is thereby irrevocable; or

second Relinquishment for placement by the agency with any adoptive parent selected by the agency and is thereby irrevocable.

13. That I further understand that if my Relinquishment is for the placement of my child with a prospective adoptive parent selected by the agency and agreed upon by me as designated in Paragraph 5 B. above, and the adoption of my child by that prospective adoptive parent will not be completed, I agree that pursuant to N.C.G.S. 48-3-704:

That I will receive notice by the agency at my address listed above, if the agency cannot locate me after the exercise of due diligence, that the adoption will not be completed and my revocation period will be 10 days, inclusive of weekends and holidays, from the date of receipt of notice by the agency that the adoption will not be completed. If I do not revoke my relinquishment within this 10 day period in writing and delivered in the manner provided by G.S. 48-3-706, my relinquishment will be deemed a general relinquishment, and the agency may place the child with a prospective adoptive parent selected by the agency.

OR

That I do not wish to receive notice by the agency that the adoption will not be completed and in the event of such an uncompleted adoption, I hereby consent to the adoption of my child with any prospective adoptive parent selected by the agency.

14. That I understand that to revoke my Relinquishment for Adoption, as provided in G.S. 48-3-706, the revocation must be made by giving written notice to the agency to which the Relinquishment was given. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the agency at the agency's address as given in the Relinquishment. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the agency at the agency's address as given in the Relinquishment. Forms to revoke my Relinquishment may be obtained from the Clerk of Superior Court in any county in North Carolina.

15. That I understand unless revoked in accordance with G.S. 48-3-706 or #13 above, my Relinquishment is final and irrevocable except under the circumstances set forth in G.S. 48-3-707.



Signature of [Mother] [Father] [Guardian]
[Guardian ad Litem of the Mother/Father]

Address

STATE OF NORTH CAROLINA

_____ COUNTY

I, _____, do hereby certify
(Name of official)

that _____ personally appeared before me this day
Name of [Mother] [Father] [Guardian] [Guardian ad Litem of the Mother/Father]

and acknowledged the due execution of the foregoing document and that this document has been sworn to (or affirmed) and subscribed before me. I further certify to the best of my knowledge and belief that the parent or guardian executing the Relinquishment: read, or had read to him or her, and understood the Relinquishment; signed the Relinquishment voluntarily; received an original or copy of his or her fully executed Relinquishment; and was advised that counseling services are available through agency to whom Relinquishment is given.

I certify that I, the undersigned, am a Notary Public or one otherwise empowered to administer oaths or take acknowledgments.

Witness my hand and seal this the _____ day of _____,

at _____
(Place of Relinquishment)

Signature _____

(S E A L)

Title _____

My commission expires _____

NOTE:
Three DSS-1804 forms are signed. The original of this form is attached to the Consent to Adoption by Agency (DSS-1801) and sent with the Petition for Adoption to the Division of Social Services, State Department of Health and Human Services, by the Clerk of Superior Court. One copy of Form DSS-1804 is retained in the record of the county department of social services or licensed private child-placing agency. One copy is given to the parent or guardian or guardian ad litem of the Mother/Father relinquishing the child.

DSS-1804 (11/2014)
Child Welfare Services

STATE OF NORTH CAROLINA

_____ COUNTY

ACCEPTANCE OF RELINQUISHMENT OF MINOR FOR ADOPTION

BY PARENT OR GUARDIAN OR GUARDIAN AD LITEM OF THE MOTHER/FATHER

WHEREAS, it appears to the undersigned, upon diligent inquiry and investigation:

That the child, _____, was born on the _____ day of _____, _____, [or expected to be born approximately _____]

to _____ and _____
(Full name of birth parent 1) (Full name of birth parent 2)

in _____ County, State of _____; that the [mother] [father] [guardian]

[guardian ad litem of the mother/father] has a permanent address at _____.

WHEREAS, a Relinquishment for Adoption of the child to the undersigned was executed on the _____ day of _____, _____, at _____.

NOW, THEREFORE, the undersigned hereby accepts the Relinquishment of Minor for Adoption by the:

- Mother Father Guardian of said child Guardian ad Litem of the Mother/Father pursuant to G.S. 48-3-602

This the _____ day of _____, _____.

_____ of _____ County
Signature of Director of Social Services or Authorized Representative

_____ by _____
Signature of Licensed child-placing agency Title

_____ Address

Note: G.S. 48-3-702 requires an agency that accepts a Relinquishment to furnish each parent or guardian or guardian ad litem of the mother/father who signs a Relinquishment a letter or other writing indicating the agency's willingness to accept the Relinquishment. This Acceptance form fulfills this requirement. In the event this form cannot be signed and provided to the parent or guardian at the time the Relinquishment is signed, another writing to the same effect must be signed and provided.

Model Court Report for Dispositional and Review Hearings

Court Date: _____

I. Background Information

Date of this report: _____

Child's Name: _____ DOB: _____ File#: _____

Age _____ Child's GAL: _____

	Name	Age	Address	Attorney/GAL
Mother				
Bio-Father				
Legal Father				
Custodian				
Other				

Reason For Report	
Dispositional Hearing NCGS 7B-901	√
Review Hearing NCGS 7B-906	
Other Hearing	

Prior Legal Proceedings	Date
Non-Secure Custody Order	
Petition Filed	
First Continued Custody Hearing	
Other Continued Custody Hearing	
Adjudication Hearing	
Disposition Hearing	
First Custody Review	
Other Reviews	

Placements

Days in Care: _____

Current Placement: _____ Type/Relation _____ Date: _____

Previous Placement: _____ Type/Relation _____ Date: _____

II. Current Situation of Child

Is there any information to indicate that the child may be subject to the Indian Child Welfare Act?

Yes ____ No ____ Explain (if yes, complete DSS-5291) _____

Have any relatives been identified as potential placement providers since the last hearing? Yes ___ No ___

Is a kinship care assessment already in progress? Yes ____ No ____

If Yes to either, indicate names and status of kinship assessment. _____

Change of placement: If the child's placement has changed since the filing of the petition and entry of the original Order to Assume Custody, list the reasons for the change in placement:

Educational Stability: Current school placement: _____ Current grade: _____
Is it in the best interest of the child to remain in the same school in which he/she was enrolled prior to placement? Yes _____ No _____ If Yes, what efforts are being made to allow the child to remain in the same school? _____

If it is not in the child's best interest, has DSS and the local education authority arranged for immediate and appropriate enrollment in a new school and for immediate transfer of all educational records?

Yes _____ No _____

Is the child on track academically for their current grade? Yes _____ No _____ If No, what general education support services are being provided to assist the child in being successful in school? _____

Has the child experienced a change in schools as a result of a change in foster care placement? Yes _____ No _____ If Yes, how many times has this occurred? _____

Does the child have physical, emotional, medical, or mental health issues that may qualify the child for services under IDEA/Section 504 and/or may impact educational performance? Yes _____ No _____ If Yes, what services is the child receiving to address these issues? _____

Child Status and Strengths/Needs (include mental health and physical/dental health):

Delinquent/Undisciplined History of Child (when relevant): _____

Transitional Living Plan for Youth, age 16 and older: What services are currently being provided to the youth to implement their transitional living plan? _____

What is the current progress of the youth in acquiring the skills necessary to transition to self-sufficient adulthood? _____

Attach the current Transitional Living Plan to the court report per G.S. § 7B-906.1.

Summary of Current Investigation/Assessment: _____

History of Prior CPS Involvement: _____

III. Current Situation of Parents/Custodian

Parents' Status and Strengths/Needs (include mental health, substance abuse (insure compliance with 42CFR part 2 confidentiality requirements), transportation, etc.)

Mother: _____

Father: _____

Parents' Progress in achieving Service Plan Goals to reduce risk (include an assessment of the parents' ability to participate in a service plan and include **drug treatment** (insure compliance with 42CFR part 2 confidentiality requirements), **parent education, mental health, etc.** as appropriate)

Mother: _____

Father: _____

IV. Case History

Criminal History of Parents (include when relevant) _____

Child and Family Team Meetings: Date Held _____

Visitation Plan: Describe the visitation plan and how the parents are demonstrating their ability to parent their child(ren) independently in their visits: (attach current visitation plan)

Child Support: Describe any child support arrangements with the parents and their compliance:

Other Significant Information: _____

V. Efforts by DSS Agency

The DSS agency has made efforts since the last hearing toward achieving the following primary plan:
Prevent Removal _____ Reunification _____ Adoption _____ Guardianship _____
Custody _____ Another Permanent Planned Living Arrangement; and the concurrent plan of

The following efforts have been made to achieve the above-indicated plan(s):

Date	Effort	Result

Barriers to Achieving the Permanent Plan(s) (list):

VI. Recommendations

_____ County DSS respectfully requests that this Court adopt the following recommendations:

Find that the efforts made by _____ County DSS were reasonable to achieve the primary plan of: _____ and the concurrent plan of: _____ (list any plans that were in effect since the most recent hearing).

Recommended Plan(s): _____

Additional services needed to achieve the recommended plans and whether they need to be court ordered:

Based on the case plans and the parents' level of compliance, DSS makes the following additional recommendations for the parents and child(ren): _____

DSS recommends that the child's placement/custody should change _____ stay the same _____. Explain:

Recommended changes to the visitation plan: _____

When and what kind of hearing should be held next: _____

Respectfully Submitted,

Social Worker

Social Work Supervisor

Model Court Report for Permanency Planning Hearings

Court Date: _____

I. Background Information

Date of this report: _____
 Child's Name: _____ DOB: _____ File#: _____
 Age _____ Child's GAL: _____

	Name	Age	Address	Attorney/GAL
Mother				
Bio-Father				
Legal Father				
Custodian				
Other				

Prior Legal Proceedings	Date
Non-Secure Custody Order	
Petition Filed	
First Continued Custody Hearing	
Other Continued Custody Hearing	
Adjudication Hearing	
Disposition Hearing	
First Custody Review	
Permanency Planning Hearing	
Other Reviews	

Placements

Days in Care: _____
 Number of months out of the last 22 months that the child has been in care _____
 Current Placement: _____ Type/Relation _____ Date: _____
 Previous Placement: _____ Type/Relation _____ Date: _____

- Attach Placement Log

II. Current Situation of Child

Is there any information to indicate that the child may be subject to the Indian Child Welfare Act?
 Yes _____ No _____ Explain (if yes, complete DSS-5291) _____

Have any relatives been identified as potential placement providers since the last hearing? Yes ___ No ___
 Is a kinship care assessment already in progress? Yes _____ No _____

If yes to either, indicate names and status of kinship assessment: _____

Change of placement: If the child's placement has changed since the last court review, list the reasons for the change in placement: _____

Educational Stability: Current school placement: _____ Current grade: _____

Is it in the best interest of the child to remain in the same school in which he/she was enrolled prior to placement? Yes _____ No _____ If Yes, what efforts are being made to allow the child to remain in the same school? _____

If it is not in the child's best interest, has DSS and the local education authority arranged for immediate and appropriate enrollment in a new school and for immediate transfer of all educational records?

Yes _____ No _____

Is the child on track academically for their current grade? Yes _____ No _____ If no, what general education support services are being provided to assist the child in being successful in school? _____

Has the child experienced a change in schools as a result of a change in foster care placement? Yes _____ No _____ If yes how many times has this occurred? _____

Does the child have physical, emotional, medical, or mental health issues that may qualify the child for services under IDEA/Section 504 and/or may impact educational performance? Yes _____ No _____ If yes, what services is the child receiving to address these issues? _____

Child Status and Strengths/Needs (include transitional living plan if youth is age 14 or older as well as mental health and physical/dental health): _____

Discuss whether the child has regular opportunities to engage in age or developmentally-appropriate activities. _____

Discuss whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why returning home is not in the juvenile's best interest. _____

Where the juvenile's return home is unlikely within six months, discuss whether legal guardianship or custody with a relative or some other suitable person should be established. If so, are the parents able to be involved with the juvenile (i.e., visitation, child support, etc.) and would such involvement benefit the juvenile? _____

Where the juvenile's return home is unlikely within six months, would adoption benefit the juvenile and if so, are there any barriers to the juvenile's adoption? _____

Where the juvenile's return home is unlikely within six months, would the juvenile benefit from another permanent planned living arrangement? Could this be accomplished in the juvenile's current placement? Explain. _____

III. Current Situation of Parents/Custodian

Parents' Status and Strengths/Needs (include mental health, substance abuse (insure compliance with 42CFR part 2 confidentiality requirements), transportation, etc.)

Mother: _____

Father: _____

Parents' Progress in achieving Service Plan Goals to reduce risk (include an assessment of the parents' ability to participate in a service plan and include drug treatment (insure compliance with 42CFR part 2 confidentiality requirements), parent education, mental health, etc. as appropriate)

Mother: _____

Father: _____

IV. Case History

Criminal History of Parents (include when relevant) _____

Child and Family Team Meetings: Date Held _____

Visitation Plan: Describe the visitation plan and how the parents are demonstrating their ability to parent their child(ren) independently in their visits: (attach current visitation plan)

Child Support: Describe any child support arrangements with the parents and their compliance:

Other Significant Information: _____

V. Efforts by DSS Agency

The DSS agency has made efforts since the last hearing toward achieving the following primary plan:
____ Prevent Removal ____ Reunification ____ Adoption ____ Guardianship ____ Custody
____ Another Permanent Planned Living Arrangement ____ Reinstatement of Parental Rights; and the
concurrent plan of _____

The following efforts have been made to achieve the above-indicated plan(s):

Date	Effort	Result

Children with a Permanency Plan of APPLA:

Discuss the intense, ongoing and, as of the date of this hearing, unsuccessful efforts to return the child home, or place the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent: _____

Barriers to Achieving the Permanent Plan(s) (list):

VI. Recommendations

_____ County DSS respectfully requests that this Court adopt the following recommendations:

Find that the efforts made by _____ County DSS were reasonable to achieve the primary plan of: _____ and the concurrent plan of: _____ (list any plans that were in effect since the most recent hearing).

Recommended Permanent Plans: _____

Additional services needed to achieve the recommended plans and whether they need to be court ordered:

Based on the case plan and the parents' level of compliance, DSS makes the following additional recommendations for the parents and child(ren): _____

DSS recommends that the child's placement/custody should change _____ stay the same _____. Explain:

Recommended changes to the visitation plan: _____

When and what kind of hearing should be held next: _____

Respectfully Submitted,

Social Worker

Social Work Supervisor

Model Court Report for Post Termination of Parental Rights Hearings

Court Date: _____

I. Background Information

Date of this report: _____
 Child's Name: _____ DOB: _____ File#: _____
 Age _____ Child's GAL: _____

Prior Legal Proceedings	Date
Non-Secure Custody Order	
Petition Filed	
First Continued Custody Hearing	
Other Continued Custody Hearing	
Adjudication Hearing	
Disposition Hearing	
First Custody Review	
Permanency Planning Hearing	
Other Reviews	
Termination of Parental Rights Hearing	

Placements

Days in Care: _____
 Current Placement: _____
 Type/Relation _____ Date: _____
 Previous Placement: _____
 Type/Relation _____ Date: _____

II. Current Situation of Child

Is there any information to indicate that the child may be subject to the Indian Child Welfare Act?
 Yes _____ No _____ Explain (if yes, complete DSS-5291) _____

Have any relatives been identified as potential placement providers since the last hearing? Yes ___ No ___
 Is a kinship care assessment already in progress? Yes _____ No _____
 If Yes to either, indicate names and status of kinship assessment. _____

Change of placement: If the child's placement has changed since the last court review, list the reasons for the change in placement:

Educational Stability: Current school placement: _____ Current grade: _____
 Is it in the best interest of the child to remain in the same school in which he/she was enrolled prior to placement? Yes _____ No _____ If Yes, what efforts are being made to allow the child to remain in the same school? _____

If it is not in the child's best interest, has DSS and the local education authority arranged for immediate and appropriate enrollment in a new school and for immediate transfer of all educational records?
 Yes _____ No _____
 Is the child on track academically for their current grade? Yes _____ No _____ If No, what general education support services are being provided to assist the child in being successful in school? _____

Has the child experienced a change in schools as a result of a change in foster care placement? Yes _____ No _____ If Yes, how many times has this occurred? _____

Does the child have physical, emotional, medical, or mental health issues that may qualify the child for services under IDEA/Section 504 and/or may impact educational performance? Yes _____ No _____
If Yes, what services is the child receiving to address these issues? _____

Child Status and Strengths/Needs (include mental health and physical/dental health):

Delinquent/Undisciplined History of Child (when relevant): _____

Transitional Living Plan for Youth, age 16 and older: What services are currently being provided to the youth to implement their transitional living plan? _____

What is the current progress of the youth in acquiring the skills necessary to transition to self-sufficient adulthood? _____

Attach the current Transitional Living Plan to the court report per [G.S. § 7B-906.1](#).

Has the child been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency?
Yes _____ No _____ Explain if needed _____

III. Case History

Child and Family Team Meetings: Date Held _____

Visitation: Describe visitation plan for siblings or other relatives: (attach current visitation plan)

Other Significant Information: _____

IV. Efforts by DSS Agency

The DSS agency has made efforts since the last hearing toward achieving the following primary plan: Adoption ____ Guardianship ____ Custody ____ Another Permanent Planned Living Arrangement ____
Reinstatement of Parental Rights ____; and the concurrent plan of: _____.

Why were these plans chosen and describe how it meets the child's best interests: _____

The following efforts have been made to achieve the above-indicated plans:

Date	Effort	Result

Barriers to Achieving the Permanent plan(s) (list):

V. Recommendations

_____ County DSS respectfully requests that this Court adopt the following recommendations:

Find that the efforts made by _____ County DSS were reasonable to achieve the plan(s) of:
 _____ (list any plans that were in effect since the most recent hearing).

Recommended Permanent Plans: _____

Additional court-ordered services needed to achieve the recommended plans: _____

Based on the case plan, DSS makes the following additional recommendations:

DSS recommends that the child's placement/custody should change _____ stay the same _____. Explain:

Recommended changes to the visitation plan: _____

When and what kind of hearing should be held next: _____

Respectfully Submitted,

Social Worker

Social Work Supervisor