

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 597
Committee Substitute Favorable 5/7/91

Short Title: SBI Day Care Abuse Task Force.

(Public)

Sponsors:

Referred to:

April 4, 1991

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE STATE BUREAU OF INVESTIGATION TO FORM A
TASK FORCE TO INVESTIGATE ALL CASES OF SUBSTANTIATED CHILD
SEXUAL ABUSE IN DAY CARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-544 reads as rewritten:

"§ 7A-544. **Investigation by Director; notification of State Bureau of Investigation if sexual abuse in day care; creation of State Bureau of Investigation investigatory task force; notification of person making the report.**

When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation 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 investigation. When the report alleges neglect, the Director shall initiate the investigation within 72 hours following receipt of the report. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, 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 or other caretaker

1 refuses to accept the protective services provided or arranged by the Director, the
2 Director shall sign a complaint seeking to invoke the jurisdiction of the court for the
3 protection of the juvenile or juveniles.

4 If immediate removal seems necessary for the protection of the juvenile or other
5 juveniles in the home, the Director shall sign a complaint which alleges the applicable
6 facts to invoke the jurisdiction of the court. Where the investigation shows that it is
7 warranted, a protective services worker may assume temporary custody of the juvenile
8 for the juvenile's protection pursuant to Article 46 of this Chapter.

9 In performing any of these duties, the Director may utilize the staff of the county
10 Department of Social Services or any other public or private community agencies that
11 may be available. The Director may also consult with the available State or local law-
12 enforcement officers who shall assist in the investigation and evaluation of the
13 seriousness of any report of abuse or neglect when requested by the Director. If the
14 Director's initial investigation of a report of abuse in a day care facility reveals sexual
15 abuse may have occurred, the Director shall notify the State Bureau of Investigation of
16 the results of the initial investigation within 24 hours or on the next working day. The
17 State Bureau of Investigation shall as expeditiously as possible send a task force to
18 investigate the abuse and gather evidence that may be presented at a criminal trial.

19 Unless a petition is filed within five working days after receipt of the report of abuse
20 or neglect, the Director shall give written notice to the person making the report that:

- 21 (1) There is no finding of abuse or neglect; or
- 22 (2) The county Department of Social Services is taking action to protect
23 the welfare of the juvenile and what specific action it is taking.

24 The notification shall include notice that, if the person making the report is not satisfied
25 with the Director's decision, he may request review of the decision by the prosecutor
26 within five working days of receipt. The person making the report may waive his right
27 to this notification and no notification is required if the person making the report does
28 not identify himself to the Director."

29 Sec. 2. G.S. 7A-548 reads as rewritten:

30 "**§ 7A-548. Duty of Director to report evidence of abuse, neglect; notification of**
31 **Child Day Care Commission—Department of Human Resources; State**
32 **Bureau of Investigation.**

33 (a) If the Director finds evidence that a juvenile has been abused as defined by
34 G.S. 7A-517(1), he shall immediately make a written report of the findings of his
35 investigation to the district attorney, who shall determine if criminal prosecution is
36 appropriate, and who may request the Director or his designee to appear before a
37 magistrate.

38 If the Director receives information that a juvenile has been physically harmed in
39 violation of any criminal statute by any person other than the juvenile's parent or other
40 person responsible for his care, he shall make an oral or written report of that
41 information to the district attorney or the district attorney's designee within 24 hours
42 after receipt of the information. The district attorney shall determine whether criminal
43 prosecution is appropriate.

1 If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a
2 juvenile in day care, either in a ~~day-care~~ day care facility or a ~~day-care plan,~~ day care
3 home, the Director shall notify the ~~North Carolina Child Day Care Commission~~
4 Department of Human Resources within 24 hours or on the next working day of receipt
5 of the report. Upon completion of the investigation, the Director shall notify the
6 ~~Commission~~ Department of the results of the investigation required by G.S. 7A-544. If
7 the Director's initial investigation, carried out pursuant to G.S. 7A-544, of a report of
8 abuse in a day care facility or home reveals that sexual abuse may have occurred, the
9 Director shall notify the State Bureau of Investigation of the results of the initial
10 investigation. The State Bureau of Investigation shall, as expeditiously as possible,
11 send a task force to investigate the abuse and gather evidence that may be presented at a
12 criminal trial.

13 The Director of the Department of Social Services shall submit a report of alleged
14 abuse or neglect to the central registry under the policies adopted by the Social Services
15 Commission.

16 (b) If the Director finds evidence that a juvenile has been abused or neglected as
17 defined by G.S. 7A-517 in a ~~day-care~~ day care facility or ~~plan,~~ home, he shall
18 immediately so notify the ~~Child Day Care Commission~~ Department of Human Resources
19 and the State Bureau of Investigation in such a way as does not violate the law
20 guaranteeing the confidentiality of the records of the Department of Social Services."

21 Sec. 3. Article 4 of Chapter 114 of the General Statutes is amended by
22 adding a new section to read:

23 "**§ 114-15.3. Investigations of child abuse in day care.**

24 The Director of the Bureau shall form a task force to investigate and prepare
25 evidence in the event of every notification by the director of a county department of
26 social services, pursuant to G.S. 7A-644, that the director's initial investigation of a
27 report of abuse in a day care home or facility reveals that sexual abuse may have
28 occurred. The task force shall commence its investigation as expeditiously as possible.
29 The results of the task force's investigation and preparation of evidence may be used at a
30 criminal trial of misdemeanor child abuse pursuant to G.S. 14-318.2 or felony child
31 abuse pursuant to G.S. 14-318.4."

32 Sec. 4. Sections 1, 2, and 3 of this act shall be implemented from funds
33 available to the appropriate departments.

34 The Department of Human Resources, and the Judicial Department shall
35 adopt rules to ensure that the three investigations of abuse in child day care undertaken
36 by the director of the county department of social services, the Department of Human
37 Resources, and the State Bureau of Investigation, do not interfere with one another.
38 These rules shall also include development of methods by which the State Bureau of
39 Investigation instructs the Department of Human Resources and the director of the
40 county department of social services on ways to conduct their investigations without
41 destroying evidence that the State Bureau of Investigation may be gathering for a
42 possible criminal trial.

43 The Department of Human Resources, and the Judicial Department shall
44 make a joint report in writing to the Joint Legislative Commission on Governmental

- 1 Operations by March 1, 1992, as to whether any legislation needs to be changed to
- 2 effect this act.
- 3 Sec. 5. This act becomes effective October 1, 1991.