

§ 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; 2016-94, s. 12C.1(e); 2016-115, s. 4; 2017-102, s. 2.)