

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**D**

**HOUSE DRH30036-LU-5A\* (1/27)**

Short Title: Amend Child Welfare Laws.-AB

(Public)

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Sponsors: Representative Culpepper.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE  
CHILD WELFARE LAWS AND TO ENHANCE THE STATE'S ABILITY TO  
PROTECT CHILDREN.

The General Assembly of North Carolina enacts:

PART 1. MULTIPLE RESPONSE SYSTEM

PART 2. SERVICE OF SUMMONS

PART 3. CONTINUANCES FOR TERMINATION OF PARENTAL RIGHTS

PART 4. AFFIDAVIT OF PARENTAGE AND AGREEMENT TO SUPPORT

PART 5. CHILDREN REQUIRED TO ATTEND SCHOOL

PART 6. MAINTAINING REGISTER OF FOSTER PARENT APPLICANTS

PART 7. STATE CHILD FATALITY REVIEW TEAM

PART 8. RESIDENCY

PART 9. EFFECTIVE DATE

**PART 1. MULTIPLE RESPONSE SYSTEM**

**SECTION 1.1.** G.S. 7B-101 reads as rewritten:

**"§ 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;

- 1 c. Uses or allows to be used upon the juvenile cruel or grossly  
2 inappropriate procedures or cruel or grossly inappropriate  
3 devices to modify behavior;
- 4 d. Commits, permits, or encourages the commission of a violation  
5 of the following laws by, with, or upon the juvenile: first-degree  
6 rape, as provided in G.S. 14-27.2; second degree rape as  
7 provided in G.S. 14-27.3; first-degree sexual offense, as  
8 provided in G.S. 14-27.4; second degree sexual offense, as  
9 provided in G.S. 14-27.5; sexual act by a custodian, as provided  
10 in G.S. 14-27.7; crime against nature, as provided in G.S.  
11 14-177; incest, as provided in G.S. 14-178 and G.S. 14-179;  
12 preparation of obscene photographs, slides, or motion pictures  
13 of the juvenile, as provided in G.S. 14-190.5; employing or  
14 permitting the juvenile to assist in a violation of the obscenity  
15 laws as provided in G.S. 14-190.6; dissemination of obscene  
16 material to the juvenile as provided in G.S. 14-190.7 and G.S.  
17 14-190.8; displaying or disseminating material harmful to the  
18 juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first  
19 and second degree sexual exploitation of the juvenile as  
20 provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the  
21 prostitution of the juvenile as provided in G.S. 14-190.18; and  
22 taking indecent liberties with the juvenile, as provided in ~~G.S.~~  
23 ~~14-202.1, regardless of the age of the parties;~~ G.S. 14-202.1;
- 24 e. Creates or allows to be created serious emotional damage to the  
25 juvenile; serious emotional damage is evidenced by a juvenile's  
26 severe anxiety, depression, withdrawal, or aggressive behavior  
27 toward himself or others; or
- 28 f. Encourages, directs, or approves of delinquent acts involving  
29 moral turpitude committed by the juvenile.
- 30 (2) Aggravated circumstances. – Any circumstance attending to the  
31 commission of an act of abuse or neglect which increases its enormity  
32 or adds to its injurious consequences, including, but not limited to,  
33 abandonment, torture, chronic abuse, or sexual abuse.
- 34 (3) Caretaker. – Any person other than a parent, guardian, or custodian  
35 who has responsibility for the health and welfare of a juvenile in a  
36 residential setting. A person responsible for a juvenile's health and  
37 welfare means a stepparent, foster parent, an adult member of the  
38 juvenile's household, an adult relative entrusted with the juvenile's  
39 care, any person such as a house parent or cottage parent who has  
40 primary responsibility for supervising a juvenile's health and welfare  
41 in a residential child care facility or residential educational facility, or  
42 any employee or volunteer of a division, institution, or school operated  
43 by the Department of Health and Human Services. "Caretaker" also  
44 means any person who has the responsibility for the care of a juvenile

1 in a child care facility as defined in Article 7 of Chapter 110 of the  
2 General Statutes and includes any person who has the approval of the  
3 care provider to assume responsibility for the juveniles under the care  
4 of the care provider. Nothing in this subdivision shall be construed to  
5 impose a legal duty of support under Chapter 50 or Chapter 110 of the  
6 General Statutes. The duty imposed upon a caretaker as defined in this  
7 subdivision shall be for the purpose of this Subchapter only.

- 8 (4) Clerk. – Any clerk of superior court, acting clerk, or assistant or  
9 deputy clerk.
- 10 (5) Community-based program. – A program providing nonresidential or  
11 residential treatment to a juvenile in the community where the  
12 juvenile's family lives. A community-based program may include  
13 specialized foster care, family counseling, shelter care, and other  
14 appropriate treatment.
- 15 (6) Court. – The district court division of the General Court of Justice.
- 16 (7) Court of competent jurisdiction. – A court having the power and  
17 authority of law to act at the time of acting over the subject matter of  
18 the cause.
- 19 (7a) "Criminal history" means a local, State, or federal criminal history of  
20 conviction or pending indictment of a crime, whether a misdemeanor  
21 or a felony, involving violence against a person.
- 22 (8) Custodian. – The person or agency that has been awarded legal  
23 custody of a juvenile by a court or a person, other than parents or legal  
24 guardian, who has assumed the status and obligation of a parent  
25 without being awarded the legal custody of a juvenile by a court.
- 26 (9) Dependent juvenile. – A juvenile in need of assistance or placement  
27 because the juvenile has no parent, guardian, or custodian responsible  
28 for the juvenile's care or supervision or whose parent, guardian, or  
29 custodian is unable to provide for the care or supervision and lacks an  
30 appropriate alternative child care arrangement.
- 31 (10) Director. – The director of the county department of social services in  
32 the county in which the juvenile resides or is found, or the director's  
33 representative as authorized in G.S. 108A-14.
- 34 (11) District. – Any district court district as established by G.S. 7A-133.
- 35 (11a) Family assessment response. – A response to allegations of child  
36 neglect and dependency using a family-centered approach that is  
37 prevention oriented and addresses current and future harm to the child,  
38 the family's strengths and needs, and the reported allegations.
- 39 (11b) Investigative assessment response. – A response to allegations of child  
40 abuse and selected reports of child maltreatment using a formal  
41 information gathering process to determine whether the abuse or  
42 maltreatment has occurred and to provide necessary services to prevent  
43 further abuse or maltreatment.
- 44 (12) Judge. – Any district court judge.

- 1 (13) Judicial district. – Any district court district as established by G.S.  
2 7A-133.
- 3 (14) Juvenile. – A person who has not reached the person's eighteenth  
4 birthday and is not married, emancipated, or a member of the armed  
5 forces of the United States. The term 'juvenile' as used in reference to  
6 rights and privileges includes the attorney for the juvenile.
- 7 (14a) Multiple Response System. – A system of response to allegations of  
8 child abuse, neglect, or dependency where county departments of  
9 social services handle selected reports using either a family assessment  
10 response or an investigative assessment response.
- 11 (15) Neglected juvenile. – A juvenile who does not receive proper care,  
12 supervision, or discipline from the juvenile's parent, guardian,  
13 custodian, or caretaker; or who has been abandoned; or who is not  
14 provided necessary medical care; or who is not provided necessary  
15 remedial care; or who lives in an environment injurious to the  
16 juvenile's welfare; or who has been placed for care or adoption in  
17 violation of law. In determining whether a juvenile is a neglected  
18 juvenile, it is relevant whether that juvenile lives in a home where  
19 another juvenile has died as a result of suspected abuse or neglect or  
20 lives in a home where another juvenile has been subjected to abuse or  
21 neglect by an adult who regularly lives in the home.
- 22 (16) Petitioner. – The individual who initiates court action, whether by the  
23 filing of a petition or of a motion for review alleging the matter for  
24 adjudication.
- 25 (17) Prosecutor. – The district attorney or assistant district attorney  
26 assigned by the district attorney to juvenile proceedings.
- 27 (18) Reasonable efforts. – The diligent use of preventive or reunification  
28 services by a department of social services when a juvenile's remaining  
29 at home or returning home is consistent with achieving a safe,  
30 permanent home for the juvenile within a reasonable period of time. If  
31 a court of competent jurisdiction determines that the juvenile is not to  
32 be returned home, then reasonable efforts means the diligent and  
33 timely use of permanency planning services by a department of social  
34 services to develop and implement a permanent plan for the juvenile.
- 35 (19) Safe home. – A home in which the juvenile is not at substantial risk of  
36 physical or emotional abuse or neglect.
- 37 (20) Shelter care. – The temporary care of a juvenile in a physically  
38 unrestricting facility pending court disposition.

39 The singular includes the plural, the masculine singular includes the feminine  
40 singular and masculine and feminine plural unless otherwise specified."

41 **SECTION 1.2.** G.S. 7B-300 reads as rewritten:

42 **"§ 7B-300. Protective services.**

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

1 Protective services shall include the ~~investigation~~assessment and screening of  
2 complaints, casework, or other counseling services to parents, guardians, or other  
3 caretakers as provided by the director to help the parents, guardians, or other caretakers  
4 and the court to prevent abuse or neglect, to improve the quality of child care, to be  
5 more adequate parents, guardians, or caretakers, and to preserve and stabilize family  
6 life.

7 The provisions of this Article shall also apply to child care facilities as defined in  
8 G.S. 110-86."

9 **SECTION 1.3.** G.S. 7B-301 reads as rewritten:

10 **"§ 7B-301. Duty to report abuse, neglect, dependency, or death due to**  
11 **maltreatment.**

12 Any person or institution who has cause to suspect that any juvenile is abused,  
13 neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of  
14 maltreatment, shall report the case of that juvenile to the director of the department of  
15 social services in the county where the juvenile resides or is found. The report may be  
16 made orally, by telephone, or in writing. The report shall include information as is  
17 known to the person making it including the name and address of the juvenile; the name  
18 and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the  
19 names and ages of other juveniles in the home; the present whereabouts of the juvenile  
20 if not at the home address; the nature and extent of any injury or condition resulting  
21 from abuse, neglect, or dependency; and any other information which the person  
22 making the report believes might be helpful in establishing the need for protective  
23 services or court intervention. If the report is made orally or by telephone, the person  
24 making the report shall give the person's name, address, and telephone number. Refusal  
25 of the person making the report to give a name shall not preclude the department's  
26 ~~investigation~~assessment of the alleged abuse, neglect, dependency, or death as a result  
27 of maltreatment.

28 Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the  
29 director shall notify the State Bureau of Investigation within 24 hours or on the next  
30 workday. If sexual abuse in a child care facility is not alleged in the initial report, but  
31 during the course of the ~~investigation~~assessment there is reason to suspect that sexual  
32 abuse has occurred, the director shall immediately notify the State Bureau of  
33 Investigation. Upon notification that sexual abuse may have occurred in a child care  
34 facility, the State Bureau of Investigation may form a task force to investigate the  
35 report."

36 **SECTION 1.4.** G.S. 7B-302 reads as rewritten:

37 **"§ 7B-302. ~~Investigation~~Assessment by director; access to confidential**  
38 **information; notification of person making the report.**

39 (a) When a report of abuse, neglect, or dependency is received, the director of the  
40 department of social services shall make a prompt and thorough ~~investigation~~  
41 assessment, using either a family assessment response or an investigative assessment  
42 response, in order to ascertain the facts of the case, the extent of the abuse or neglect,  
43 and the risk of harm to the juvenile, in order to determine whether protective services  
44 should be provided or the complaint filed as a petition. When the report alleges abuse,

1 the director shall immediately, but no later than 24 hours after receipt of the report,  
2 initiate the ~~investigation~~ assessment. When the report alleges neglect or dependency,  
3 the director shall initiate the ~~investigation~~ assessment within 72 hours following receipt  
4 of the report. When the report alleges abandonment, the director shall immediately  
5 initiate an investigation, take appropriate steps to assume temporary custody of the  
6 juvenile, and take appropriate steps to secure an order for nonsecure custody of the  
7 juvenile. The ~~investigation~~ assessment and evaluation shall include a visit to the place  
8 where the juvenile resides. When the report alleges abandonment, the investigation shall  
9 include a request from the director to law enforcement officials to investigate through  
10 the North Carolina Center for Missing Persons and other national and State resources  
11 whether the juvenile is a missing child. All information received by the department of  
12 social services, including the identity of the reporter, shall be held in strictest confidence  
13 by the department.

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

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

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

41 (d1) Whenever a juvenile is removed from the home of a parent, guardian,  
42 custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical  
43 abuse, the director shall conduct a thorough review of the background of the alleged  
44 abuser or abusers. This review shall include a criminal history check and a review of

1 any available mental health records. If the review reveals that the alleged abuser or  
2 abusers have a history of violent behavior against people, the director shall petition the  
3 court to order the alleged abuser or abusers to submit to a complete mental health  
4 evaluation by a licensed psychologist or psychiatrist.

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

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

32 (g) Within five working days after completion of the protective services  
33 ~~investigation~~assessment, the director shall give subsequent written notice to the person  
34 making the report, unless requested by that person not to give notice, as to whether there  
35 is a finding of abuse, neglect, or dependency, whether the county department of social  
36 services is taking action to protect the juvenile, and what action it is taking, including  
37 whether or not a petition was filed. The person making the report shall be informed of  
38 procedures necessary to request a review by the prosecutor of the director's decision not  
39 to file a petition. A request for review by the prosecutor shall be made within five  
40 working days of receipt of the second notification. The second notification shall include  
41 notice that, if the person making the report is not satisfied with the director's decision,  
42 the person may request review of the decision by the prosecutor within five working  
43 days of receipt. The person making the report may waive the person's right to this

1 notification, and no notification is required if the person making the report does not  
2 identify himself to the director."

3 **SECTION 1.5.** G.S. 7B-303 reads as rewritten:

4 "**§ 7B-303. Interference with ~~investigation~~assessment.**

5 (a) If any person obstructs or interferes with an ~~investigation~~assessment required  
6 by G.S. 7B-302, the director may file a petition naming said person as respondent and  
7 requesting an order directing the respondent to cease such obstruction or interference.  
8 The petition shall contain the name and date of birth and address of the juvenile who is  
9 the subject of the ~~investigation~~assessment, shall specifically describe the conduct  
10 alleged to constitute obstruction of or interference with the ~~investigation~~assessment,  
11 and shall be verified.

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

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

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



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

4 (f) An order entered pursuant to this section is enforceable by civil or criminal  
5 contempt as provided in Chapter 5A of the General Statutes."

6 **SECTION 1.6.** G.S. 7B-305 reads as rewritten:

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

8 The person making the report shall have five working days, from receipt of the  
9 decision of the director of the department of social services not to petition the court, to  
10 notify the prosecutor that the person is requesting a review. The prosecutor shall notify  
11 the person making the report and the director of the time and place for the review, and  
12 the director shall immediately transmit to the prosecutor a copy of ~~the investigation~~  
13 ~~report.~~ a summary of the assessment."

14 **SECTION 1.7.** G.S. 7B-307 reads as rewritten:

15 **"§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by**  
16 **local law enforcement; notification of Department of Health and Human**  
17 **Services and State Bureau of Investigation.**

18 (a) If the director finds evidence that a juvenile may have been abused as defined  
19 by G.S. 7B-101, the director shall make an immediate oral and subsequent written  
20 report of the findings to the district attorney or the district attorney's designee and the  
21 appropriate local law enforcement agency within 48 hours after receipt of the report.  
22 The local law enforcement agency shall immediately, but no later than 48 hours after  
23 receipt of the information, initiate and coordinate a criminal investigation with the  
24 protective services ~~investigation,~~ assessment being conducted by the county department  
25 of social services. Upon completion of the investigation, the district attorney shall  
26 determine whether criminal prosecution is appropriate and may request the director or  
27 the director's designee to appear before a magistrate.

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

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

40 (b) If the director finds evidence that a juvenile has been abused or neglected as  
41 defined by G.S. 7B-101 in a child care facility, the director shall immediately so notify  
42 the Department of Health and Human Services and, in the case of sexual abuse, the  
43 State Bureau of Investigation, in such a way as does not violate the law guaranteeing the  
44 confidentiality of the records of the department of social services.

1 (c) Upon completion of the ~~investigation, assessment,~~ the director shall give the  
2 Department written notification of the results of the investigation required by G.S.  
3 7B-302. Upon completion of an ~~investigation assessment~~ of sexual abuse in a child care  
4 facility, the director shall also make written notification of the results of the  
5 ~~investigation assessment~~ to the State Bureau of Investigation.

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

10 **SECTION 1.8.** G.S. 7B-308(b) reads as rewritten:

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

16 (1) If the ~~investigation assessment~~ reveals (i) that it is the opinion of the  
17 certifying physician that the juvenile is in need of medical treatment to  
18 cure or alleviate physical distress or to prevent the juvenile from  
19 suffering serious physical injury, and (ii) that it is the opinion of the  
20 physician that the juvenile should for these reasons remain in the  
21 custody of the facility for 12 hours, but (iii) that the juvenile's parent,  
22 guardian, custodian, or caretaker cannot be reached or, upon request,  
23 will not consent to the treatment within the facility, the director shall  
24 within the initial 12-hour period file a juvenile petition alleging abuse  
25 and setting forth supporting allegations and shall seek a nonsecure  
26 custody order. A petition filed and a nonsecure custody order obtained  
27 in accordance with this subdivision shall come on for hearing under  
28 the regular provisions of this Subchapter unless the director and the  
29 certifying physician together voluntarily dismiss the petition.

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

37 **SECTION 1.9.** G.S. 7B-309 reads as rewritten:

38 "**§ 7B-309. Immunity of persons reporting and cooperating in an**  
39 **~~investigation assessment.~~**

40 Anyone who makes a report pursuant to this Article, cooperates with the county  
41 department of social services in a protective services ~~inquiry~~—  
42 ~~investigation, assessment,~~ testifies in any judicial proceeding resulting from a protective  
43 services report or ~~investigation, assessment,~~ or otherwise participates in the program  
44 authorized by this Article, is immune from any civil or criminal liability that might

1 otherwise be incurred or imposed for that action provided that the person was acting in  
2 good faith. In any proceeding involving liability, good faith is presumed."

3 **SECTION 1.10.** G.S. 7B-404(a) reads as rewritten:

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

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

8 (2) When the director of the department of social services requests a  
9 petition alleging the obstruction of or interference with an  
10 ~~investigation-assessment~~ required by G.S. 7B-302."

11 **SECTION 1.11.** G.S. 7B-506(h)(3) reads as rewritten:

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

13 ...

14 (3) Inquire as to whether there are other juveniles remaining in the home  
15 from which the juvenile was removed and, if there are, inquire as to  
16 the specific findings of the ~~investigation-assessment~~ conducted under  
17 G.S. 7B-302 and any actions taken or services provided by the director  
18 for the protection of the other juveniles."

19 **SECTION 1.12.** G.S. 108A-14(a)(11) reads as rewritten:

20 "(a) The director of social services shall have the following duties and  
21 responsibilities:

22 ...

23 (11) To ~~investigate-assess~~ reports of child abuse and neglect and to take  
24 appropriate action to protect such children pursuant to the Child Abuse  
25 Reporting Law, Article 3 of Chapter 7B of the General Statutes;"

## 26 **PART 2. SERVICE OF SUMMONS**

27 **SECTION 2.** G.S. 7B-407 reads as rewritten:

28 "**§ 7B-407. Service of summons.**

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

33 If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot  
34 be found by a diligent effort, the court may authorize service of the summons and  
35 petition by mail or by publication. The cost of the service by publication shall be  
36 advanced by the petitioner and may be charged as court costs as the court may direct.

37 If the parent, guardian, custodian, or caretaker is personally served as herein  
38 provided and fails without reasonable cause to appear and to bring the juvenile before  
39 the court, the parent, guardian, custodian, or caretaker may be proceeded against as for  
40 contempt of court."

## 41 **PART 3. CONTINUANCES FOR TERMINATION OF PARENTAL RIGHTS**

42 **SECTION 3.** G.S. 7B-1109(d) reads as rewritten:

43 "(d) The court may for good cause shown continue the hearing for such time as is  
44 reasonably required ~~for receiving~~ to receive additional evidence, any reports or

1 assessments which the court has requested, or any other information needed in the best  
2 interests of the ~~juvenile~~-juvenile and to allow for a reasonable time for the parties to  
3 conduct expeditious discovery. Otherwise, continuances shall be granted only in  
4 extraordinary circumstances when necessary for the proper administration of justice or  
5 in the best interest of the juvenile. If the court, pursuant to this subsection, continues the  
6 hearing to a time that is more than 90 days from the filing of the initial petition or  
7 motion, the court shall reduce its order to writing and state in the written order its reason  
8 for granting the continuance."

9 **PART 4. AFFIDAVIT OF PARENTAGE AND AGREEMENT TO SUPPORT**

10 **SECTION 4.** G.S. 110-132(a) reads as rewritten:

11 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
12 paternity, the written affidavits of parentage executed by the putative father and the  
13 mother of the dependent child shall constitute an admission of paternity and shall have  
14 the same legal effect as a judgment of ~~paternity for the purpose of establishing a child~~  
15 ~~support obligation, paternity,~~ subject to the right of either signatory to rescind within the  
16 earlier of:

- 17 (1) 60 days of the date the document is executed, or
- 18 (2) The date of entry of an order establishing paternity or an order for the  
19 payment of child support."

20 **PART 5. CHILDREN REQUIRED TO ATTEND SCHOOL**

21 **SECTION 5.** G.S. 115C-378 reads as rewritten:

22 **"§ 115C-378. Children required to attend.**

23 Every parent, guardian or other person in this State having charge or control of a  
24 child between the ages of seven and 16 years shall cause such child to attend school  
25 continuously for a period equal to the time which the public school to which the child is  
26 assigned shall be in session. Every parent, guardian, or other person in this State having  
27 charge or control of a child under age seven who is enrolled in a public school in grades  
28 kindergarten through two shall also cause such child to attend school continuously for a  
29 period equal to the time which the public school to which the child is assigned shall be  
30 in session unless the child has withdrawn from school. No person shall encourage,  
31 entice or counsel any such child to be unlawfully absent from school. The parent,  
32 guardian, or custodian of a child shall notify the school of the reason for each known  
33 absence of the child, in accordance with local school policy.

34 The principal, superintendent, or teacher who is in charge of such school shall have  
35 the right to excuse a child temporarily from attendance on account of sickness or other  
36 unavoidable cause which does not constitute unlawful absence as defined by the State  
37 Board of Education. The term "school" as used herein is defined to embrace all public  
38 schools and such nonpublic schools as have teachers and curricula that are approved by  
39 the State Board of Education.

40 All nonpublic schools receiving and instructing children of a compulsory school age  
41 shall be required to keep such records of attendance and render such reports of the  
42 attendance of such children and maintain such minimum curriculum standards as are  
43 required of public schools; and attendance upon such schools, if the school refuses or  
44 neglects to keep such records or to render such reports, shall not be accepted in lieu of

1 attendance upon the public school of the district to which the child shall be assigned:  
2 Provided, that instruction in a nonpublic school shall not be regarded as meeting the  
3 requirements of the law unless the courses of instruction run concurrently with the term  
4 of the public school in the district and extend for at least as long a term.

5 The principal or his designee shall notify the parent, guardian, or custodian of his  
6 child's excessive absences after the child has accumulated three unexcused absences in a  
7 school year. After not more than six unexcused absences, the principal shall notify the  
8 parent, guardian, or custodian by mail that he may be in violation of the Compulsory  
9 Attendance Law and may be prosecuted if the absences cannot be justified under the  
10 established attendance policies of the State and local boards of education. Once the  
11 parents are notified, the school attendance counselor shall work with the child and his  
12 family to analyze the causes of the absences and determine steps, including adjustment  
13 of the school program or obtaining supplemental services, to eliminate the problem. The  
14 attendance counselor may request that a law-enforcement officer accompany him if he  
15 believes that a home visit is necessary.

16 After 10 accumulated unexcused absences in a school year-year, the principal shall  
17 review any report or investigation prepared under G.S. 115C-381 and shall confer with  
18 the student and his parent, guardian, or ~~eustodian~~ custodian, ~~if possible~~ possible, to  
19 determine whether the parent, guardian, or custodian has received notification pursuant  
20 to this section and made a good faith effort to comply with the law. If the principal  
21 determines that the parent, guardian, or custodian has not, not made a good faith effort  
22 to comply with the law, he the principal shall notify the district attorney-attorney and the  
23 director of social services of the county or city where the case arose. After the principal  
24 has made a determination based on the report or investigation prepared pursuant to G.S.  
25 115C-381, the director shall then decide whether to undertake a protective services  
26 assessment against the parent, guardian, or custodian for educational neglect. If he the  
27 principal determines that the parent, guardian, or custodian has, made a good faith effort  
28 to comply with the law, he the principal may file a complaint with the juvenile court  
29 counselor pursuant to Chapter 7B of the General Statutes that the child is habitually  
30 absent from school without a valid excuse. Evidence that shows that the parents,  
31 guardian, or custodian were notified and that the child has accumulated 10 absences  
32 which cannot be justified under the established attendance policies of the local board  
33 shall establish a prima facie case that the child's parent, guardian, or custodian is  
34 responsible for the absences."

35 **PART 6. MAINTAINING REGISTER OF FOSTER PARENT APPLICANTS**

36 **SECTION 6.** G.S. 131D-10.6B reads as rewritten:

37 "**§ 131D-10.6B. ~~Report of death~~ Maintaining a register of applicants by the**  
38 **Division of Social Services.**

39 (a) ~~A facility licensed under this Article shall notify the Department immediately~~  
40 ~~upon the death of any resident of the facility that occurs within seven days of physical~~  
41 ~~restraint of the resident, and shall notify the Department within three days of the death~~  
42 ~~of any resident of the facility resulting from violence, accident, suicide, or homicide.~~  
43 ~~The Department may assess a civil penalty of not less than five hundred dollars~~  
44 ~~(\$500.00) and not more than one thousand dollars (\$1,000) against a facility that fails to~~

1 notify the Department of a death and the circumstances surrounding the death known to  
2 the facility. Chapter 150B of the General Statutes governs the assessment of a penalty  
3 under this section. A civil penalty owed under this section may be recovered in a civil  
4 action brought by the Department or the Attorney General. The clear proceeds of the  
5 penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

6 (a1) The Division of Social Services shall keep a register of all family foster and  
7 therapeutic foster home applicants. The register shall be available to the public upon  
8 request and upon payment of a reasonable fee for copying as established by the Division  
9 of Social Services. The register shall state all of the following:

10 (1) The name, age, and address of each applicant.

11 (2) The date of the application.

12 (3) The applicant's supervising agency.

13 (4) Any mandated training completed by the applicant and the dates of  
14 training.

15 (5) Whether the applicant was licensed and the date of the initial licensure.

16 (6) The current licensing period.

17 (7) Any adverse licensing actions.

18 (8) Any other information deemed necessary by the Division of Social  
19 Services.

20 ~~(b) Upon receipt of notification from a facility in accordance with subsection (a)~~  
21 ~~of this section, the Department shall notify the Governor's Advocacy Council for~~  
22 ~~Persons With Disabilities that a person with a disability has died. The Department shall~~  
23 ~~provide the Council access to the information about each death reported to the Council~~  
24 ~~pursuant to subsection (a) of this section, including information resulting from any~~  
25 ~~investigation of the death by the Department, and from reports received from the Chief~~  
26 ~~Medical Examiner pursuant to G.S. 130A-385. The Council shall use the information in~~  
27 ~~accordance with its powers and duties under G.S. 143B-403.1 and applicable federal~~  
28 ~~law and regulations.~~

29 (b1) Applications of family foster and therapeutic foster home applicants and all  
30 other related materials, including letters of reference, mutual home assessments, or  
31 medical, psychological, financial, or other personal background information or history  
32 of applicants, the applicants' family, or members of the applicants' household, shall be  
33 treated as confidential and not as 'public records' subject to disclosure pursuant to  
34 Chapter 132 of the General Statutes.

35 ~~(c) If the death of a resident of the facility occurs within seven days of the use of~~  
36 ~~physical restraint, the Department shall initiate immediately an investigation of the~~  
37 ~~death.~~

38 ~~(d) Nothing in this section abrogates State or federal law or requirements~~  
39 ~~pertaining to the confidentiality, privilege, or other prohibition against disclosure of~~  
40 ~~information provided to the Department or the Council. In carrying out the requirements~~  
41 ~~of this section, the Department and the Council shall adhere to State and federal~~  
42 ~~requirements of confidentiality, privilege, and other prohibitions against disclosure and~~  
43 ~~release applicable to the information received under this section. A facility or provider~~

1 ~~that makes available confidential information in accordance with this section and with~~  
2 ~~State and federal law is not liable for the release of the information.~~

3 (e) ~~The Secretary shall establish a standard reporting format for reporting deaths~~  
4 ~~pursuant to this section and shall provide to facilities subject to this section a form for~~  
5 ~~the facility's use in complying with this section."~~

6 **PART 7. STATE CHILD FATALITY REVIEW TEAM**

7 **SECTION 7.** G.S. 143B-150.20 reads as rewritten:

8 **"§ 143B-150.20. State Child Fatality Review Team; establishment; purpose;**  
9 **powers; duties; report by Division of Social Services.**

10 (a) There is established in the Department of Health and Human Services,  
11 Division of Social Services, a State Child Fatality Review Team to conduct in-depth  
12 reviews of any child fatalities which have occurred involving children and families  
13 involved with local departments of social services child protective services in the 12  
14 months preceding the fatality. Steps in this in-depth review shall include interviews with  
15 any individuals determined to have pertinent information as well as examination of any  
16 written materials containing pertinent information.

17 (b) The purpose of these reviews shall be to implement a team approach to  
18 identifying factors which may have contributed to conditions leading to the fatality and  
19 to develop recommendations for improving coordination between local and State  
20 entities which might have avoided the threat of injury or fatality and to identify  
21 appropriate remedies. The Division of Social Services shall make public the findings  
22 and recommendations developed for each fatality reviewed relating to improving  
23 coordination between local and State entities. These findings shall not be admissible as  
24 evidence in any civil or administrative proceedings against individuals or entities that  
25 participate in child fatality reviews conducted pursuant to this section. The State Child  
26 Fatality Review Team shall consult with the appropriate district attorney in accordance  
27 with G.S. 7B-2902(d) prior to the public release of the findings and recommendations.

28 (c) The State Child Fatality Review Team shall include representatives of the  
29 local departments of social services and the Division of Social Services, a member of  
30 the local Community Child Protection Team, a member of the local child fatality  
31 prevention team, a representative from local law enforcement, a prevention specialist,  
32 and a medical professional.

33 (d) The State Child Fatality Review Team shall have access to all medical  
34 records, hospital records, and records maintained by this State, any county, or any local  
35 agency as necessary to carry out the purposes of this subsection, including police  
36 investigative data, medical examiner investigative data, health records, mental health  
37 records, and social services records. The State Child Fatality Review Team may receive  
38 a copy of any reviewed materials necessary to the conduct of the fatality review. Any  
39 member of the State Child Fatality Review Team may share, only in an official meeting  
40 of the State Child Fatality Review Team, any information available to that member that  
41 the State Child Fatality Review Team needs to carry out its duties.

42 (d1) Pursuant to subsection (d) of this section, if a request for records by the State  
43 Child Fatality Review Team is denied or a response to its request is not immediately  
44 forthcoming, the State Child Fatality Review Team may apply for an order compelling

1 disclosure. The application shall state, with reasonable particularity, factors supporting  
2 the need for an order compelling disclosure. The State Child Fatality Review Team shall  
3 file the application in Wake County Superior Court and the Court shall have jurisdiction  
4 to issue any orders compelling disclosure. Actions brought pursuant to this section shall  
5 be scheduled for immediate hearing, and subsequent proceedings in these actions shall  
6 be given priority by the appellate courts. After a hearing, the Court shall issue an order  
7 compelling disclosure unless the court finds that the disclosure of the requested records  
8 is not permitted by federal law and regulations.

9 (e) Meetings of the State Child Fatality Review Team are not subject to the  
10 provisions of Article 33C of Chapter 143 of the General Statutes. However, the State  
11 Child Fatality Review Team may hold periodic public meetings to discuss, in a general  
12 manner not revealing confidential information about children and families, the findings  
13 of their reviews and their recommendations for preventive actions. Minutes of all public  
14 meetings, excluding those of closed sessions, shall be kept in compliance with Article  
15 33C of Chapter 143 of the General Statutes. Any minutes or any other information  
16 generated during any executive session shall be sealed from public inspection.

17 (f) All otherwise confidential information and records acquired by the State  
18 Child Fatality Review Team, in the exercise of its duties are confidential; are not subject  
19 to discovery or introduction into evidence in any proceedings except pursuant to an  
20 order of the court; and may only be disclosed as necessary to carry out the purposes of  
21 the State Child Fatality Review Team. In addition, all otherwise confidential  
22 information and records created by the State Child Fatality Review Team in the exercise  
23 of its duties are confidential; are not subject to discovery or introduction into evidence  
24 in any proceedings; and may only be disclosed as necessary to carry out the purposes of  
25 the State Child Fatality Review Team. No member of the State Child Fatality Review  
26 Team, nor any person who attends a meeting of the State Child Fatality Review Team,  
27 may testify in any proceeding about what transpired at the meeting, about information  
28 presented at the meeting, or about opinions formed by the person as a result of the  
29 meetings. This subsection shall not, however, prohibit a person from testifying in a civil  
30 or criminal action about matters within that person's independent knowledge.

31 (g) Each member of the State Child Fatality Review Team and invited participant  
32 shall sign a statement indicating an understanding of and adherence to confidentiality  
33 requirements, including the possible civil or criminal consequences of any breach of  
34 confidentiality.

35 ~~(h) The Division of Social Services, Department of Health and Human Services,~~  
36 ~~shall report to the members of the Senate Appropriations Committee on Human~~  
37 ~~Resources, the House of Representatives Appropriations Subcommittee on Health and~~  
38 ~~Human Services, and the Fiscal Research Division on the activities of the State Child~~  
39 ~~Fatality Review Team including recommendations for changes in the statewide child~~  
40 ~~protection system no later than October 1 of each year."~~

#### 41 **PART 8. RESIDENCY**

42 **SECTION 8.** G.S. 153A-257 is amended by adding a new subsection to  
43 read:



1        "(d) If two or more county departments of social services differ regarding the legal  
2 residence of a minor in a child abuse, neglect, or dependency case, either county  
3 department of social services may refer the factual situation to the Department of Health  
4 and Human Services, Division of Social Services. After reviewing the pertinent  
5 background facts of the case, the Director of the Division of Social Services or the  
6 Director's designee shall determine which county department of social services shall be  
7 responsible for providing protective services and financial support for the minor in  
8 question. Since the Department of Health and Human Services is the supervising agency  
9 under Chapter 108A of the General Statutes for the county-administered programs, the  
10 determination of the Director or the Director's designee regarding the minor's legal  
11 residence for social services purposes is binding upon the county departments of social  
12 services and counties and is not subject to judicial review."

13 **PART 9. EFFECTIVE DATE**

14        **SECTION 9.** This act is effective when it becomes law.