

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 409
HOUSE BILL 638

AN ACT TO PROHIBIT INTERFERENCE WITH OR OBSTRUCTION OF CHILD
PROTECTIVE SERVICES INVESTIGATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-544.1. **Interference with investigation.**—(a) If any person obstructs or interferes with an investigation required by G.S. 7A-544, the Director may file a petition naming said person as respondent and requesting an order directing the respondent to cease such obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the investigation, shall specifically describe the conduct alleged to constitute obstruction of or interference with the investigation, and shall be verified.

(b) For purposes of this section, obstruction of or interference with an investigation 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 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 his duty to investigate.

(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 investigation required by G.S. 7A-544, 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, he 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 investigate to determine the juvenile's condition, the court may enter an ex parte order directing the respondent to cease such obstruction or interference. The order shall be limited to provisions necessary to enable the Director to conduct an

investigation 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 or neglect as required by G.S. 7A-543.

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

Sec. 2. G.S. 7A-523 is amended in subsection (a) by deleting the period and substituting a semicolon in subdivision (6) and by adding a new subdivision at the end to read:

"(7) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7A-544."

Sec. 3. G.S. 7A-562 is amended as follows:

(1) by deleting the period at the end of subdivision (2) of subsection (b) and substituting ", or";

(2) by adding a new subdivision at the end of subsection (b) to read:

"(3) When the Director of the Department of Social Services requests a petition alleging the obstruction of or interference with an investigation required by G.S. 7A-544."

(3) by inserting in the first sentence of subsection (c) between the word "order" and the period the words "or an order under G.S. 7A-544.1".

Sec. 4. This act is effective October 1, 1987.

In the General Assembly read three times and ratified this the 18th day of June, 1987.