Article 1A.

Control over Child Placing and Child Care.

Part 1. In General.

§ 131D-10.1. Foster Care Children's Bill of Rights; purpose.

(a) It is the policy of this State to strengthen and preserve the family as a unit consistent with a high priority of protecting children's welfare. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family. However, the State recognizes there are instances when protecting a child's welfare outweighs reunifying the family unit, and as such, the care of residential care facilities providing high quality services that include meeting the children's educational needs as determined by the Department of Health and Human Services, Division of Social Services can satisfy the standard of protecting a child's welfare, regardless of the child's age, particularly when the sibling groups can be kept intact. To that end, the General Assembly promotes the following in the provision of foster care:

(1) A safe foster home free of violence, abuse, neglect, and danger.
(2) First priority regarding placement in a home with siblings.
(3) The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time.
(4) Allowing the child to remain enrolled in the school the child attended before being placed in foster care, if at all possible.
(5) Having a social worker, when a child is removed from the home, to immediately begin conducting an investigation to identify and locate all grandparents, adult siblings, and other adult relatives of the child to provide those persons with specific information and explanation of various options to participate in placement of a child.
(6) Participation in school extracurricular activities, community events, and religious practices.
(7) Communication with the biological parents if the child placed in foster care receives any immunizations and whether any additional immunizations are needed if the child will be transitioning back into a home with his or her biological parents.
(8) Establishing and having access to a bank or savings account in accordance with State laws and federal regulations.
(9) Obtaining identification and permanent documents, including a birth certificate, social security card, and health records by the age of 16, to the extent allowed by federal and State law.
(10) The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings.
(11) Meaningful participation in a transition plan for those phasing out of foster care, including participation in family team, treatment team, court, and school meetings.

A violation of subdivisions (1) through (11) of this subsection shall not be construed to create a cause of action under this section against the State, the Department of Health and Human Services, or a person or entity providing foster care pursuant to this Article.

(a1) No agency or other State entity shall deny or delay (i) the opportunity to become a foster parent or (ii) the placement of a child in foster care on the basis of race, color, or national origin of the person or the child involved.

(b) The purpose of this Article is to assign the authority to protect the health, safety and well-being of children separated from or being cared for away from their families. (1983, c. 637, s. 2; 2009-408, s. 1; 2013-326, s. 1; 2023-14, s. 6.5(b).)

§ 131D-10.2. Definitions.

For purposes of this Article, unless the context clearly implies otherwise:

(1) "Adoption" means the act of creating a legal relationship between parent and child where it did not exist genetically.

(2) "Adoptive Home" means a family home approved by a child placing agency to accept a child for adoption.

(3) "Child" means an individual less than 21 years of age, who has not been emancipated under the provisions of Article 35 of Chapter 7B of the General Statutes.

(4) "Child Placing Agency" means a person authorized by statute or license under this Article to receive children for purposes of placement in residential group care, family foster homes or adoptive homes.

(5) "Children's Camp" means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.

(6a) "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.

(7) "Department" means the Department of Health and Human Services.

(8) "Family Foster Home" means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

(9) "Foster Care" means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.

(9a) "Foster Parent" means any individual who is 21 years of age or older who is licensed by the State to provide foster care.

(10) "Person" means an individual, partnership, joint-stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.

(11) "Primarily Educational Institution" means any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.

(12) "Provisional License" means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(13) "Residential Child-Care Facility" means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care.

(14) "Therapeutic Foster Home" means a family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission. (1983, c. 637, s. 2; 1993, c. 180, s. 5; 1995, c. 507, s. 23.26(a); 1997-140, s. 1; 1997-443, s. 11A.118(a); 1998-202, s. 13(hh); 2001-487, s. 84(b); 2007-276, s. 11; 2015-241, s. 12C.9(d).)

§ 131D-10.2A. Reasonable and prudent parent standard.

(a) The reasonable and prudent parent standard is the standard characterized by careful and sensible parental decisions that are reasonably intended to maintain the health, safety, and best interests of the child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

(b) Every child care institution shall designate an on-site official who is authorized to apply the reasonable and prudent parent standard pursuant to this section.

(c) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the county department of social services, must use the reasonable and prudent parent standard when determining whether to allow a child in foster care to participate in extracurricular, enrichment, and social activities.

(d) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, may be held liable for an act or omission of the child if the caregiver fails to act in accordance with the reasonable and prudent parent standard under this section. To the extent it may be applicable, the liability of a county department of social services, or the Department of Health and Human Services, shall be strictly adjudicated according to and in compliance with the terms of G.S. 153A-435, et seq., or G.S. 143-291, et seq., as applicable.

Nothing in this subsection is intended to abrogate or diminish the qualified immunities of public officials acting in the course and scope of their employment.

(e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, exercising the reasonable and prudent parent standard has the authority to provide or withhold permission, without prior approval of the court or a county department of social services, to allow a child in foster care, in the custody of a county department of social services, or under the placement authority of a county department of social services through a voluntary placement agreement to participate in normal childhood activities. Normal childhood activities shall include, but are not limited to, extracurricular, enrichment, and social activities and may include overnight activities outside the direct supervision of the caregiver for periods of over 24 hours and up to 72 hours.

(f) The caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, shall not be liable for injuries to the child that occur as a result of acting in accordance with the reasonable and prudent parent standard.

(g) The immunity provided in subsection (f) of this section does not apply if it is determined that the injuries to the child were caused by gross negligence, willful and wanton conduct, or intentional wrongdoing, or arose out of the operation of a motor vehicle. Any liability under this subsection that may be attributable to either the county department of social services or the Department of Health and Human Services shall be strictly adjudicated according to and in compliance with the terms of G.S. 153A-435, et seq., or G.S. 143-291, et seq., as applicable. Nothing in this subsection is intended to abrogate or diminish the qualified immunities of public officials acting in the course and scope of their employment.

(h) For any action under this section, the burden of proof with respect to a breach of the reasonable and prudent parent standard shall be by clear and convincing evidence. (2015-135, s. 2.1.)

§ 131D-10.2B. Foster care until 21 years of age.

(a) A child placed in foster care who has attained the age of 18 years may continue receiving foster care services until reaching 21 years of age as provided by law. A child who initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive foster care services at a later date until reaching 21 years of age.

(b) A child who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under G.S. 108A-48(c). (2015-241, s. 12C.9(e).)

§ 131D-10.2C. Allowable number of children in family foster home.

(a) Except as provided in subsection (b) of this section, no more than five children shall reside in any family foster home at any time. These five children include the foster parent's own children, children placed for family foster care, licensed capacity for in-home day care children, children kept for babysitting, or any other children residing in the home. Children kept for in-home day care and babysitting are considered residents of the home.

(b) A family foster home may have more than five children if one of the following exceptions applies:

(1) If written documentation is submitted to the licensing authority for family foster care that siblings will be placed together and the foster home complies with all other licensure requirements. The out-of-home family services agreement for each sibling shall specify that siblings will be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children.

(2) A family foster home that would otherwise qualify for family foster home licensure or placement of one child or siblings in foster care, but does not qualify solely due to the presence five children in the home, shall be eligible for licensure as a family foster home or placement of a child or siblings in foster care. Written documentation must be submitted to the licensing authority that siblings will be placed together to allow more than five children to be placed in the foster home under this section. The out-of-home family services agreement for each sibling shall specify that siblings will be placed together. Any family foster home qualifying for placement of more than five children under this section shall meet all other licensure requirements. (2023-82, s. 1.)

§ 131D-10.3. Licensure required.

(a) No person shall operate, establish or provide foster care for children or receive and place children in residential care facilities, family foster homes, or adoptive homes without first applying for a license to the Department and submitting the required information on application forms provided by the Department.

(b) Persons licensed or seeking a license under this Article shall permit the Department access to premises and information required to determine whether the person is in compliance with licensing rules of the Commission.

(c) Persons licensed pursuant to this Article shall be periodically reviewed by the Department to determine whether they comply with Commission rules and whether licensure shall continue.

(d) This Article shall apply to all persons intending to organize, develop or provide foster care for children or receive and place children in residential child-care facilities, family foster homes or adoptive homes irrespective of such persons having applied for or obtained a certification, registration or permit to carry on work not controlled by this Article except persons exempted in G.S. 131D-10.4.

(d1) Notwithstanding any other provision of law, the Department shall grant or deny a license to provide foster care or therapeutic foster care within three months from the date of application.

(e) Unless revoked or modified to a provisional or suspended status, the terms of a license issued by the Department shall be in force for a period not to exceed 24 months from the date of issuance under rules adopted by the Commission.

(f) Persons licensed or seeking a license who are temporarily unable to comply with a rule or rules may be granted a provisional license. The provisional license can be issued for a period not to exceed six months. The noncompliance with a rule or rules shall not present an immediate threat to the health and safety of the children, and the person shall have a plan approved by the Department to correct the area(s) of noncompliance within the provisional period. A provisional license for an additional period of time to meet the same area(s) of noncompliance shall not be issued.

(g) In accordance with Commission rules, a person may submit to the Department documentation of compliance with the standards of a nationally recognized accrediting body, and the Department on the basis of such accreditation may deem the person in compliance with one or more Commission licensing rules.

(h) Except as provided in subsection (i) of this section, the Secretary shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

(1) The applicant was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its license revoked until 60 months after the date of the revocation.

(2) The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of Chapter 122C, or any combination thereof, and any one of the following conditions exist:

a. A single violation has been assessed in the six months prior to the application.

b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.

c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.

(3) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.

(4) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D, or had its license summarily suspended or denied under Article 7 of Chapter 110 until 60 months after the date of reinstatement or restoration of the license.

(i) The Secretary may enroll a provider described in subsection (h) of this section if any of the following circumstances apply:

(1) The applicant is an area program or county program providing services under G.S. 122C-141, and there is no other provider of the service in the catchment area.

(2) The Secretary finds that the area program or county program has shown good cause by clear and convincing evidence why the enrollment should be allowed.

(j) For purposes of subdivision (h)(2) of this section, fines assessed prior to October 23, 2002, are not applicable to this provision. However, licensure or enrollment shall be denied if an applicant's history as a provider under Chapter 131D, Chapter 122C, or Article 7 of Chapter 110 is such that the Secretary has concluded the applicant will likely be unable to comply with licensing

or enrollment statutes, rules, or regulations. In the event the Secretary denies licensure or enrollment under this subsection, the reasons for the denial and appeal rights pursuant to Article 3 of Chapter 150B shall be given to the provider in writing. (1983, c. 637, s. 2; 2002-164, s. 4.4; 2003-294, s. 4; 2017-41, s. 9.1.)

§ 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 State Bureau of Investigation 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 State Bureau of Investigation, along with the request, the fingerprints of the individual to be checked, any additional information required by the State Bureau of Investigation, 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 used by 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 of the determination by the Department of whether the foster parent or prospective foster parent is qualified to provide foster care based on the criminal history of all individuals required to be checked pursuant to subsection (a) of this section. The Department may provide the foster parent, prospective foster parent, or any other individual required to be checked pursuant to subsection (a) of this section with a copy of that applicant's criminal history information for the purpose of reviewing or challenging the accuracy of the criminal history. The Department shall notify each individual required to be checked pursuant to subsection (a) of this section 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 or prospective foster parent's right to contest the Department's determination. Public child placing agencies, including supervising county departments of social services, are required to have an employee on staff that is trained and certified to receive criminal history record information to the extent required by federal policy, law and standards.

A foster parent or prospective 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 State Bureau of Investigation 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); 2023-134, s. 19F.4(ooo); 2025-27, s. 5.3(b).)

§ 131D-10.4. Exemptions.

This Article does not apply to any of the following:

(1) Any residential child-care facility chartered by the laws of this State (or operating under charters of other states which have complied with the corporation laws of this State) which has a plant and assets worth sixty thousand dollars ($60,000) or more and which is owned or operated by a religious denomination or fraternal order and which was in operation before July 1, 1977.

(2) State institutions for children with serious emotional disturbances, delinquent children, or individuals with mental illnesses, intellectual or other developmental disabilities, or substance use disorders.

(3) Secure detention facilities as specified in Part 3 of Article 13 of Chapter 143B of the General Statutes.

(4) Licensable facilities subject to the rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services as specified in Article 2 of Chapter 122C of the General Statutes.

(5) Persons authorized by statute to receive and place children for foster care and adoption in accordance with G.S. 108A-14.

(6) Primarily educational institutions as defined in G.S. 131D-10.2(11).

(7) Individuals who are related by blood, marriage, or adoption to the child. (1983, c. 637, s. 2; 1985, c. 589, s. 39; 1991, c. 636, s. 19(b); 1998-202, s. 13(ii); 1999-423, s. 6; 2000-137, s. 4(gg); 2011-145, s. 19.1(*ll*); 2019-76, s. 16.)

§ 131D-10.5. Powers and duties of the Commission.

In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

(1) Adopt, amend and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article.

(2) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article.

(3) Adopt rules governing procedures to appeal Department decisions pursuant to this Article granting, denying, suspending or revoking licenses.

(4) Adopt criteria for waiver of licensing rules adopted pursuant to this Article.

(5) Adopt rules on documenting the use of physical restraint in residential child-care facilities.

(6) Adopt rules establishing personnel and training requirements related to the use of physical restraints and time-out for staff employed in residential child-care facilities.
(7) Adopt rules establishing educational requirements, minimum age, relevant experience, and criminal record status for executive directors and staff employed by child placing agencies and residential child care facilities.
(8) Adopt any rules necessary for the expansion of foster care for individuals who have attained the age of 18 years and chosen to continue receiving foster care services to 21 years of age in accordance with G.S. 131D-10.2B. (1983, c. 637, s. 2; 2000-129, s. 2(a); 2007-30, s. 2; 2009-188, s. 2; 2015-241, s. 12C.9(f).)

§ 131D-10.5A. Collection of data on use of restraints in residential child-care facilities.

A residential child-care facility that employs physical restraint of a child shall collect data on the use of the restraint. The data shall reflect for each incidence, the type of procedure used, the length of time employed, alternatives considered or employed, and the effectiveness of the procedure or alternative employed. The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends, and take corrective action where necessary. The facility shall make the data available to the Department upon request. Nothing in this subsection abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department under this subsection. In reviewing data requested under this subsection, the Department shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this subsection. (2000-129, s. 2(b).)

§ 131D-10.6. Powers and duties of the Department.

In addition to other powers and duties prescribed by law, the Department shall exercise the following powers and duties:

(1) Investigate applicants for licensure to determine whether they are in compliance with licensing rules adopted by the Commission and the provisions of this Article.
(2) Grant a license when an investigation shows compliance with this Article and Commission rules. The license shall be valid for a period not to exceed 24 months as specified by Commission rules and may be revoked or placed in suspended or provisional status sooner if the Department finds that licensure rules are not being met or upon a finding that the health, safety or welfare of children is threatened.
(3) Administer and enforce the provisions of this Article and the rules of the Commission.
(4) Appoint hearing officers to conduct appeals pursuant to this Article.
(5) Prescribe the form in which application for licensure or a request for waiver of Commission rules shall be submitted.
(6) Inspect facilities and obtain records, documents and other information necessary to determine compliance with the provisions of this Article and Commission rules.
(7) Grant, deny, suspend or revoke a license or a provisional license, in accordance with this Article, G.S. 108A-150, and Commission rules.

(8) Act to grant or deny a request for waiver of Commission rules within 10 business days after its receipt. Grant a waiver for good cause to Commission rules that do not affect the health, safety, or welfare of children in facilities subject to licensure under this Article, in accordance with Commission rules.

(9) Undertake a comprehensive study of the existing procedures for granting or denying an application for licensure or a request for waiver of Commission rules and report to the General Assembly on or before May 1, 1998, regarding its efforts to make the process more efficient and less time-consuming and its recommendations for any changes in the licensing laws or rules. The study shall include the development of a procedure that will ensure that the local Guardian Ad Litem Program is notified by the county department of social services of the request for a waiver if a guardian has been appointed for any child who may be affected by the waiver.

(10) Report annually on October 1 to the Joint Legislative Oversight Committee on Health and Human Services the level of facility compliance with applicable State law governing the use of restraint and time-out in residential child-care facilities. The report shall also include the total number of facilities that reported deaths under this section, the number of deaths reported by each facility, the number of deaths investigated pursuant to this section, and the number found by the investigation to be related to the use of physical restraint or time-out. (1983, c. 637, s. 2; 1997-110, s. 1; 2000-129, s. 5(b); 2003-58, s. 3; 2011-291, s. 2.48; 2019-240, s. 25(b).)

§ 131D-10.6A. Training by the Division of Social Services required.

(a) The Division of Social Services, Department of Health and Human Services, shall require a minimum of 30 hours of preservice training for foster care parents either prior to licensure or within six months from the date a provisional license is issued pursuant to G.S.131D-10.3, and a mandated minimum of 10 hours of continuing education for all foster care parents annually after the year in which a license is obtained. As part of licensure, the training shall include a module that is created and made available by the Department that explains, at a minimum, the roles and obligations of a foster parent in judicial proceedings conducted under Subchapter I of Chapter 7B of the General Statutes.

(b) The Division of Social Services shall establish minimum training requirements for child welfare services staff. The minimum training requirements established by the Division are as follows:

(1) Child welfare services workers shall complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities. In completing this requirement, the Division of Social Services shall ensure that each child welfare worker receives training on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

(2) Child protective services workers shall complete a minimum of 18 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(3) Foster care and adoption workers shall complete a minimum of 39 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(4) Child welfare services supervisors shall complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities and a minimum of 54 hours of additional training that the Division of Social Services determines is necessary to adequately meet training needs.

(5) Child welfare services staff shall complete 24 hours of continuing education annually. In completing this requirement, the Division of Social Services shall provide each child welfare services staff member with annual update information on family centered practices and State and federal law regarding the basic rights of individuals relevant to the provision of child welfare services, including the right to privacy, freedom from duress and coercion to induce cooperation, and the right to parent.

(c) The Division of Social Services may grant an exception in whole or in part to the requirement under subdivision (b)(1) of this section to child welfare workers who meet either of the following:

(1) Satisfactorily complete or are enrolled in a masters or bachelors program after July 1, 1999, from a North Carolina social work program accredited pursuant to the Council on Social Work Education. The program's curricula must cover the specific preservice training requirements as established by the Division of Social Services.

(2) Have child welfare work experience in another state and have completed child welfare training equivalent to training in this State.

(d) The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human service agencies to meet the training requirements of subsection (b) of this section. (1995, c. 324, s. 23.25; 1997-390, s. 11.1; 1997-443, s. 11A.118(a); 2000-67, s. 11.14(c); 2003-304, s. 4.2; 2021-132, s. 1(i); 2023-65, s. 7.4.)

§ 131D-10.6B. Report of death.

(a) A facility licensed under this Article shall notify the Department immediately upon the death of any resident of the facility that occurs within seven days of physical restraint of the resident, and shall notify the Department within three days of the death of any resident of the facility resulting from violence, accident, suicide, or homicide. The Department may assess a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000) against a facility that fails to notify the Department of a death and the circumstances surrounding the death known to the facility. Chapter 150B of the General Statutes governs the assessment of a penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Department or the Attorney General. The clear proceeds of the penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Department shall notify the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, P.L. 106-402, that a person with a disability has died. The Department shall provide the agency access to the information about each death reported to the agency pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department, and from reports received from

the Chief Medical Examiner pursuant to G.S. 130A-385. The agency shall use the information in accordance with its powers and duties under applicable State and federal law and regulations.

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

(d) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Department or the agency. In carrying out the requirements of this section, the Department and the agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information.

(e) The Secretary shall establish a standard reporting format for reporting deaths pursuant to this section and shall provide to facilities subject to this section a form for the facility's use in complying with this section. (2000-129, s. 5(a); 2007-323, ss. 19.1(g), (h).)

§ 131D-10.6C. Maintaining a register of licensed foster homes by the Division of Social Services.

(a) The Division of Social Services shall keep a register of all licensed family foster and therapeutic foster homes. The register shall contain the following information:

(1) The name, age, and address of each foster parent.
(2) Repealed by Session Laws 2012-153, s. 7, effective October 1, 2012.
(3) The foster parent's supervising agency.
(4) The number of hours of mandated training completed by the foster parent.
(5) The date of the initial licensure.
(6) The current licensing period.
(7) Any adverse licensing actions.
(8) Repealed by Session Laws 2012-153, s. 7, effective October 1, 2012.

(b) The register shall be a public record under Chapter 132 of the General Statutes. However, the Division, without penalty, may withhold any specific information about a foster parent to the extent the release of the information would likely pose a threat to the health or safety of the foster parent or a foster child. A person who is denied access to information under this section may seek a court order compelling disclosure or copying in accordance with G.S. 132-9(a). Information not specified in subsection (a) of this section shall be considered confidential and not subject to disclosure. (2003-304, s. 5; 2012-153, s. 7.)

§ 131D-10.7. Penalties.

Any person who establishes or provides foster care for children or who receives and places children in residential child-care facilities, family foster homes or adoptive homes without a license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be punishable by a fine of not more than fifty dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense. (1983, c. 637, s. 2; 1993, c. 539, s. 955; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 131D-10.8. Injunction.

(a) Notwithstanding the existence or pursuit of any other remedy, the Department may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a facility operating without a license or in a manner that threatens the health, safety or welfare of the individuals in the facility.

(b) If any person shall interfere with the proper performance or duty of the Department in carrying out this Article, the Department may institute an action in the superior court of the county in which the interference occurred for injunctive relief against the continued interference, irrespective of all other remedies at law. (1983, c. 637, s. 2.)

§ 131D-10.9. Administrative and judicial review.

All procedures arising out of this Article, including all notification, hearing and appeal procedures, shall be governed by the appropriate provisions of Chapter 150B of the Administrative Procedure Act. (1983, c. 637, s. 2; 1987, c. 827, s. 243.)

Part 2. A Family for Every Child Initiative.

§ 131D-10.9A: Repealed by Session Laws 2021-90, s. 21, effective July 22, 2021.

§ 131D-10.9B. Permanency Innovation Initiative Fund.

(a) There is created the Permanency Innovation Initiative Fund that will support a project with services provided by Children's Home Society of North Carolina to (i) improve permanency outcomes for children living in foster care through reunification with parents, providing placement or guardianship with other relatives, or adoption, (ii) improve engagement with biological relatives of children in or at risk of entering foster care, and (iii) reduce costs associated with maintaining children in foster care. In implementing these goals, the Permanency Innovation Initiative Fund shall support the following strategies:

(1) Repealed by Session Laws 2018-68, s. 7.1, effective October 1, 2018.

(2) Child Focused Recruitment Services, which is a program that follows the Wendy's Wonderful Kids Model as developed by The Dave Thomas Foundation for Adoption and works with children in public foster care to develop and execute adoption recruitment plans tailored to the needs of the individual child. These services include enhanced family engagement practices to discover and engage relatives of children living in public foster care.

(3) Permanency Training Services, which are services delivered by Children's Home Society of North Carolina to support county departments of social services to implement the permanency strategies under subdivision (2) of this subsection, advance permanency-focused services for children in the legal custody of county departments of social services, and provide training and support services to caregivers and family members who are supporting the permanency goal of children in the legal custody of county departments of social services.

(a1) No more than fifteen percent (15%) of the State funds appropriated for this program shall be used for administrative costs.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(b1) State funds provided for the Permanency Innovation Initiative Fund shall be used to supplement, not supplant, all available federal matching funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section. (2013-360, s. 12C.10(e); 2018-68, s. 7.1; 2020-78, s. 4G.1; 2021-180, s. 9I.9(a); 2023-134, s. 9J.8.)

§ 131D-10.9C. Foster parents' Bill of Rights.

(a) The State recognizes the importance of foster parents in the vital role of supporting children and families experiencing foster care. When children are removed from their parents or legal guardians, families are almost immediately integrated into a team, including child welfare workers, resource parents, a guardian ad litem, attorneys, and others who are working together to address the issues leading to the foster care.

(b) In an effort to ensure that foster parents are treated with dignity, respect, and trust in their work for the Department of Health and Human Services, Division of Social Services, with this team, the State supports and promotes the following for foster parents in the provision of foster care:

(1) To serve as a respected member of the child welfare team. Foster parents will also honor children placed in their homes in accordance with G.S. 131D-10.1.

(2) To receive information about the responsibilities of foster parents and access to support services, including all of the following:

a. Required training and resources to ensure preparedness for caring for children experiencing loss and trauma.

b. Access to the Division of Social Services and licensing agency policies, including traveling with children in- and out-of-state, family visits and time, supervised and unsupervised, complaint and grievance policies, and confidentiality.

c. Any known information to help better care for children, including health and behavioral health history, disability, exposure to trauma, and educational needs.

d. Additional or necessary information that the county department of social services has that may be relevant to the care of the child when the child is placed with the foster parents.

e. Advance notice of scheduled meetings and appointments regarding case planning and care of the child.

f. Reasonable notice, subject to the circumstances of each particular case, to a foster parent with regard to the removal of a child from the foster home.

g. Participation in transition planning when it is in the best interest of the child.

h. 24/7 emergency contact information in the event of crisis or emergency.

i. Referral to resources for dealing with loss and separation when children return home to their parents.

(3) Be notified of any costs or expenses that may be eligible for reimbursement.

(4) Have timely allocation of resources, including submission of child care vouchers and a monthly stipend that meets or exceeds the rate established by the Division of Social Services.

(5) Receive notice of hearings regarding the child placed in the foster home and to be heard in court, either verbally or in writing, as provided for in G.S. 7B-906.1.

(6) Receive timely information pertinent to the day-to-day care of the child, including educational and health needs.

(7) Have input in court and be included as a valued member of the child's team, including the right to be informed by the clerk of court of periodic reviews of the juvenile case of a child in foster care at least 15 days before each review, and the right to provide input, verbal or written, during periodic reviews of any information that may be relevant to a child's best interests so that the court may use that information in forming its opinion on the case.

(8) Provide input to, advocate for, and seek out support from the supervising agency without fear of reprisal, including the right to request respite as needed or to request a break between placements.

(9) Be allowed reasonable opportunities to be consulted with and considered in the scheduling of home visits, therapies, and other meetings related to the child that the foster or resource parents are allowed or required to attend.

(10) Request a change in licensing workers.

(11) Be considered as prospective adoptive placement after a termination of parental rights hearing or relinquishment pursuant to G.S. 7B-1112.1.

(12) Utilize the reasonable and prudent parent standard in determining whether a foster parent can allow a child in the foster parent's care to participate in educational field trips and extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's social, emotional, and developmental growth.

(13) Request a shared parenting agreement that includes clear expectations and appropriate boundaries for all parties.

(14) Request contact information be kept confidential by the supervising agency when safety concerns are present.

(c) A violation of this Bill of Rights shall not be construed to create a cause of action under this section against the State, the Department of Health and Human Services, private supervising agencies, local county departments of social services, or an entity providing foster care pursuant to this Article. Nothing in this Bill of Rights shall override existing law or administrative rule. (2021-144, s. 1.)