

§ 7B-2401.3. Juvenile forensic evaluation credentialing; conducting forensic evaluations; written reports; compensation of experts.

(a) The Department of Health and Human Services shall designate and oversee a credentialing body which will set and maintain the minimum standards to qualify professionals who are court-appointed to conduct forensic evaluations as ordered pursuant to G.S. 7B-2401.2. The credentialing body shall determine that a qualified professional has demonstrated knowledge and experience with age-appropriate and developmentally appropriate methods for evaluating juvenile functional capacities to proceed. This subsection shall not be construed to limit the juvenile's right to retain his or her own expert.

(b) Qualified professionals who have been conducting forensic evaluations of juveniles prior to enactment of this section shall be deemed to possess the minimum requirements to become an evaluator. Such qualified professionals shall be required to satisfy the qualification standards developed by the Department of Health and Human Services within 12 months of the adoption of those standards pursuant to subsection (a) of this section.

(c) A presiding district court judge of this State who orders an examination pursuant to G.S. 7B-2401.2 shall order the release of relevant confidential information to the forensic evaluator, including the juvenile petition, orders for secure or nonsecure custody, the law enforcement incident report, the juvenile's delinquency history, detention records, any prior medical and mental health records of the juvenile, and any school records of the juvenile after providing the juvenile with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The records may be surrendered to the court for in camera review if surrender is necessary to make the required determinations. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court.

(d) No statement or disclosure made by the juvenile during the forensic evaluation regarding the juvenile's responsibility for a criminal act that can result either in an adjudication of delinquency or transfer of a matter to superior court for trial as an adult is admissible in any juvenile or criminal proceeding against the juvenile or defendant. The forensic evaluation shall not include any such statement.

(e) The forensic evaluator shall consider all of the following as part of the forensic evaluation:

- (1) Whether the juvenile is capable to proceed, incapable to proceed, or incapable to proceed with an ability to attain capacity in the foreseeable future with remediation services.
- (2) The basis of the juvenile's incapacity, to include mental disorder, intellectual disability, neurological disorder, traumatic or acquired brain injury, or developmental immaturity.
- (3) The capacity of the juvenile to do any of the following:
 - a. Appreciate the allegations against the juvenile.
 - b. Appreciate the range and nature of allowable dispositions that may be imposed in the proceedings against the juvenile.
 - c. Understand the roles of the participants and the adversary nature of the legal process.
 - d. Disclose to counsel facts pertinent to the proceedings at issue.
 - e. Display appropriate courtroom behavior.
 - f. Testify regarding the relevant issues.

- g. Make reasonable and rational decisions.
 - h. Assist in the juvenile's defense in a rational manner.
 - i. Any other factors that the forensic evaluator deems to be relevant.
- (f) Written forensic reports submitted to the court shall consist of and contain all of the following:
- (1) Identify the specific matters referred to the forensic evaluator by the juvenile court for evaluation.
 - (2) Include notification to the juvenile of the nature, purpose, and anticipated use or uses of the examination and applicable limits of confidentiality.
 - (3) Describe the procedures, techniques, and tests used in the forensic evaluation of the juvenile and the purposes of each.
 - (4) Describe the considerations considered by the forensic evaluator.
 - (5) State any clinical observations, findings, and opinions of the forensic evaluator on each issue referred to the forensic evaluator for evaluation by the court and specifically indicate any issues on which the forensic evaluator was unable to give an opinion.
 - (6) Identify the sources of information used by the forensic evaluator and present the factual basis for any clinical observations, findings, and opinions of the forensic evaluator.
 - (7) Address any other issues ordered by the court.
- (g) If a forensic evaluator is of the opinion that a juvenile is incapable to proceed, the written forensic report shall contain all of the additional information:
- (1) Any recommended treatment or education needed for the juvenile to attain capacity, if any.
 - (2) The likelihood that the juvenile will attain capacity in the foreseeable future because of the recommended treatment or education.
 - (3) An assessment of the probable duration of the treatment or education required to attain capacity.
 - (4) If the forensic evaluator recommends treatment for the juvenile to attain capacity, a recommendation as to the least restrictive environment in which services can be provided to the juvenile.
- (h) Any forensic evaluator appointed by the court to conduct a forensic evaluation, ordered pursuant to G.S. 7B-2401.2, shall receive a reasonable fee for such service. The fee shall be determined for each forensic evaluation by the appointing court, in accordance with reimbursement guidelines maintained by the North Carolina Administrative Office of the Courts. If any such forensic evaluator is required to appear as a witness in any hearing held pursuant to this section, the forensic evaluator shall receive reimbursement for expenses according to guidelines maintained by the North Carolina Administrative Office of the Courts. (2023-114, s. 5(b).)