

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 733

Short Title: Disciplinary Control of Juveniles.

(Public)

Sponsors: Representatives Capps, Russell; Aldridge, Baker, Bowie, Buchanan, Cansler, Clary, Creech, Davis, Decker, Eddins, Edwards, Hayes, Hiatt, Linney, McComas, K. Miller, Neely, Preston, Reynolds, Robinson, Sexton, Sherrill, Shubert, C. Wilson, and G. Wilson.

Referred to: Welfare Reform and Human Resources Subcommittee on Families.

April 3, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW LAW-ENFORCEMENT OFFICERS TO TAKE PHYSICAL
2 CUSTODY OF JUVENILES SIXTEEN AND SEVENTEEN YEARS OF AGE
3 WHO ARE BEYOND THE DISCIPLINARY CONTROL OF THEIR PARENTS
4 AND ABSENT FROM HOME.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7A-571 reads as rewritten:

8 "**§ 7A-571. Taking a juvenile into temporary custody.**

9 (a) Temporary custody means the taking of physical custody and providing
10 personal care and supervision until a court order for secure or nonsecure custody can be
11 obtained. A juvenile may be taken into temporary custody under the following
12 circumstances:

13 (1) A juvenile may be taken into temporary custody by a law-enforcement
14 officer without a court order if grounds exist for the arrest of an adult in
15 identical circumstances under G.S. 15A-401(b).

1 (2) A juvenile may be taken into temporary custody without a court order
2 by a law-enforcement officer or a court counselor if there are reasonable
3 grounds to believe that the juvenile is an undisciplined juvenile.

4 (3) A juvenile may be taken into temporary custody without a court order
5 by a law-enforcement officer or a Department of Social Services worker
6 if there are reasonable grounds to believe that the juvenile is abused,
7 neglected, or dependent and that the juvenile would be injured or could
8 not be taken into custody if it were first necessary to obtain a court
9 order. If a Department of Social Services worker takes a juvenile into
10 temporary custody under this subdivision, the worker may arrange for
11 the placement, care, supervision, and transportation of the juvenile.

12 (4) A juvenile may be taken into custody without a court order by a law-
13 enforcement officer, by a court counselor, by a member of the Black
14 Mountain Center, Alcohol Rehabilitation Center and Juvenile
15 Evaluation Center Joint Security Force established pursuant to G.S.
16 122C-421, or by personnel of the Division of Youth Services as
17 designated by the Department of Human Resources if there are
18 reasonable grounds to believe the juvenile is an absconder from any
19 State training school or approved detention facility.

20 (b) A law-enforcement officer may take physical custody of a juvenile who is 16
21 or 17 years of age without a court order, at the request of the juvenile's parent, guardian,
22 or custodian if there are reasonable grounds to believe the juvenile is beyond the
23 disciplinary control of the juvenile's parent, guardian, or custodian and has been absent
24 from the home without permission for 48 consecutive hours."

25 Sec. 2. G.S. 7A-572 reads as rewritten:

26 "**§ 7A-572. Duties of person taking juvenile into temporary custody.**

27 (a) A person who takes a juvenile into custody without a court order under ~~G.S.~~
28 ~~7A-571(1), (2), or (3)~~ G.S. 7A-571(a)(1), (a)(2), or (a)(3) shall proceed as follows:

29 (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has
30 been taken into temporary custody and advise the parent, guardian, or
31 custodian of the right to be present with the juvenile until a
32 determination is made as to the need for secure or nonsecure custody.
33 Failure to notify the parent that the juvenile is in custody shall not be
34 grounds for release of the juvenile;

35 (2) Release the juvenile to the juvenile's parent, guardian, or custodian if
36 the person having the juvenile in temporary custody decides that
37 continued custody is unnecessary. In the case of a juvenile unlawfully
38 absent from school, if continued custody is unnecessary, the person
39 having temporary custody may deliver the juvenile to the juvenile's
40 school or, if the local city or county government and the local school
41 board adopt such a policy, to a place in the local school administrative
42 unit.

1 (3) If the juvenile is not released under subsection (b) of this section, the
2 person having temporary custody shall proceed as follows:

3 a. In the case of a juvenile alleged to be delinquent or
4 undisciplined, the person having temporary custody shall request
5 a petition be drawn pursuant to G.S. 7A-561 or if the clerk's
6 office is closed, the magistrate pursuant to G.S. 7A-562. Once
7 the petition has been drawn and verified, the person shall
8 communicate with the intake counselor who shall consider
9 prehearing diversion. If the decision is made to file a petition, the
10 intake counselor shall contact the judge or person delegated
11 authority pursuant to G.S. 7A-573 if other than the intake
12 counselor for a determination of the need for continued custody.

13 b. In the case of a juvenile alleged to be abused, neglected, or
14 dependent, the person having temporary custody shall
15 communicate with the Director of the Department of Social
16 Services who shall consider prehearing diversion. If the decision
17 is made to file a petition, the director shall contact the judge or
18 person delegated authority pursuant to G.S. 7A-573 for a
19 determination of the need for continued custody.

20 (4) A juvenile taken into temporary custody under this Article shall not be
21 held for more than 12 hours, or for more than 24 hours if any of the 12
22 hours falls on a Saturday, Sunday, or legal holiday, unless:

23 a. A petition or motion for review has been filed by an intake
24 counselor or the Director of the Department of Social Services,
25 and

26 b. An order for secure or nonsecure custody has been entered by a
27 judge.

28 (b) A person who takes a juvenile into custody under ~~G.S. 7A-571(4)~~ G.S. 7A-
29 571(a)(4) shall, after contacting a judge and receiving an order for secure custody,
30 transport the juvenile to the nearest approved facility providing secure custody. ~~He~~ The
31 person shall then contact the administrator of the training school or detention facility
32 from which the juvenile absconded, who shall be responsible for returning the juvenile to
33 that facility.

34 (c) A person who takes a juvenile into custody under G.S. 7A-571(b) shall return
35 the juvenile to the custody of the juvenile's parent, guardian, or custodian or notify the
36 parent, guardian, or custodian that the juvenile has been taken into custody unless there
37 are reasonable grounds to believe the juvenile is abused, neglected, or dependent and
38 would be injured if returned to the custody of the parent, guardian, or custodian, in which
39 case the person shall proceed pursuant to G.S. 7A-571(a)(3) and subsection (a) of this
40 section."

41 Sec. 3. G.S. 122C-421(a) reads as rewritten:

42 "(a) The Secretary may designate one or more special police officers who shall
43 make up a joint security force to enforce the law of North Carolina and any ordinance or

1 regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the
2 authority granted the Department by any other law on the territory of the Black Mountain
3 Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in
4 Buncombe County. These special police officers have the same powers as peace officers
5 now vested in sheriffs within the territory embraced by the named centers. These special
6 police officers shall also have the power prescribed by ~~G.S. 7A-571(4)~~G.S. 7A-571(a)(4)
7 outside the territory embraced by the named centers but within the confines of Buncombe
8 County. These special police officers may arrest persons outside the territory of the
9 named centers but within the confines of Buncombe County when the person arrested has
10 committed a criminal offense within that territory, for which the officers could have
11 arrested the person within that territory, and the arrest is made during ~~such~~the person's
12 immediate and continuous flight from that territory."

13 Sec. 4. This act becomes effective October 1, 1995, and applies to physical
14 custody exercised on or after that date.