

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 203\***

Short Title: Amend Child Welfare Laws.-AB (Public)

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Sponsors: Representative Culpepper.

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Referred to: Children, Youth and Families.

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March 4, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE  
3 CHILD WELFARE LAWS AND TO ENHANCE THE STATE'S ABILITY TO  
4 PROTECT CHILDREN.

5 The General Assembly of North Carolina enacts:

6 PART 1. MULTIPLE RESPONSE SYSTEM

7 PART 2. SERVICE OF SUMMONS

8 PART 3. CONTINUANCES FOR TERMINATION OF PARENTAL RIGHTS

9 PART 4. AFFIDAVIT OF PARENTAGE AND AGREEMENT TO SUPPORT

10 PART 5. CHILDREN REQUIRED TO ATTEND SCHOOL

11 PART 6. MAINTAINING REGISTER OF FOSTER PARENT APPLICANTS

12 PART 7. STATE CHILD FATALITY REVIEW TEAM

13 PART 8. RESIDENCY

14 PART 9. EFFECTIVE DATE

15

16 **PART 1. MULTIPLE RESPONSE SYSTEM**

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

18 **"§ 7B-101. Definitions.**

19 As used in this Subchapter, unless the context clearly requires otherwise, the  
20 following words have the listed meanings:

21 (1) Abused juveniles. – Any juvenile less than 18 years of age whose  
22 parent, guardian, custodian, or caretaker:

23 a. Inflicts or allows to be inflicted upon the juvenile a serious  
24 physical injury by other than accidental means;

25 b. Creates or allows to be created a substantial risk of serious  
26 physical injury to the juvenile by other than accidental means;

27 c. Uses or allows to be used upon the juvenile cruel or grossly  
28 inappropriate procedures or cruel or grossly inappropriate  
29 devices to modify behavior;

- 1                   d.       Commits, permits, or encourages the commission of a violation  
2                   of the following laws by, with, or upon the juvenile: first-degree  
3                   rape, as provided in G.S. 14-27.2; second degree rape as  
4                   provided in G.S. 14-27.3; first-degree sexual offense, as  
5                   provided in G.S. 14-27.4; second degree sexual offense, as  
6                   provided in G.S. 14-27.5; sexual act by a custodian, as provided  
7                   in G.S. 14-27.7; crime against nature, as provided in G.S.  
8                   14-177; incest, as provided in G.S. 14-178 and G.S. 14-179;  
9                   preparation of obscene photographs, slides, or motion pictures  
10                  of the juvenile, as provided in G.S. 14-190.5; employing or  
11                  permitting the juvenile to assist in a violation of the obscenity  
12                  laws as provided in G.S. 14-190.6; dissemination of obscene  
13                  material to the juvenile as provided in G.S. 14-190.7 and G.S.  
14                  14-190.8; displaying or disseminating material harmful to the  
15                  juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first  
16                  and second degree sexual exploitation of the juvenile as  
17                  provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the  
18                  prostitution of the juvenile as provided in G.S. 14-190.18; and  
19                  taking indecent liberties with the juvenile, as provided in ~~G.S.~~  
20                  ~~14-202.1, regardless of the age of the parties;~~ G.S. 14-202.1;  
21                  e.       Creates or allows to be created serious emotional damage to the  
22                  juvenile; serious emotional damage is evidenced by a juvenile's  
23                  severe anxiety, depression, withdrawal, or aggressive behavior  
24                  toward himself or others; or  
25                  f.       Encourages, directs, or approves of delinquent acts involving  
26                  moral turpitude committed by the juvenile.
- 27                  (2)       Aggravated circumstances. – Any circumstance attending to the  
28                  commission of an act of abuse or neglect which increases its enormity  
29                  or adds to its injurious consequences, including, but not limited to,  
30                  abandonment, torture, chronic abuse, or sexual abuse.
- 31                  (3)       Caretaker. – Any person other than a parent, guardian, or custodian  
32                  who has responsibility for the health and welfare of a juvenile in a  
33                  residential setting. A person responsible for a juvenile's health and  
34                  welfare means a stepparent, foster parent, an adult member of the  
35                  juvenile's household, an adult relative entrusted with the juvenile's  
36                  care, any person such as a house parent or cottage parent who has  
37                  primary responsibility for supervising a juvenile's health and welfare  
38                  in a residential child care facility or residential educational facility, or  
39                  any employee or volunteer of a division, institution, or school operated  
40                  by the Department of Health and Human Services. "Caretaker" also  
41                  means any person who has the responsibility for the care of a juvenile  
42                  in a child care facility as defined in Article 7 of Chapter 110 of the  
43                  General Statutes and includes any person who has the approval of the  
44                  care provider to assume responsibility for the juveniles under the care

1 of the care provider. Nothing in this subdivision shall be construed to  
2 impose a legal duty of support under Chapter 50 or Chapter 110 of the  
3 General Statutes. The duty imposed upon a caretaker as defined in this  
4 subdivision shall be for the purpose of this Subchapter only.

5 (4) Clerk. – Any clerk of superior court, acting clerk, or assistant or  
6 deputy clerk.

7 (5) Community-based program. – A program providing nonresidential or  
8 residential treatment to a juvenile in the community where the  
9 juvenile's family lives. A community-based program may include  
10 specialized foster care, family counseling, shelter care, and other  
11 appropriate treatment.

12 (6) Court. – The district court division of the General Court of Justice.

13 (7) Court of competent jurisdiction. – A court having the power and  
14 authority of law to act at the time of acting over the subject matter of  
15 the cause.

16 (7a) "Criminal history" means a local, State, or federal criminal history of  
17 conviction or pending indictment of a crime, whether a misdemeanor  
18 or a felony, involving violence against a person.

19 (8) Custodian. – The person or agency that has been awarded legal  
20 custody of a juvenile by a court or a person, other than parents or legal  
21 guardian, who has assumed the status and obligation of a parent  
22 without being awarded the legal custody of a juvenile by a court.

23 (9) Dependent juvenile. – A juvenile in need of assistance or placement  
24 because the juvenile has no parent, guardian, or custodian responsible  
25 for the juvenile's care or supervision or whose parent, guardian, or  
26 custodian is unable to provide for the care or supervision and lacks an  
27 appropriate alternative child care arrangement.

28 (10) Director. – The director of the county department of social services in  
29 the county in which the juvenile resides or is found, or the director's  
30 representative as authorized in G.S. 108A-14.

31 (11) District. – Any district court district as established by G.S. 7A-133.

32 (11a) Family assessment response. – A response to allegations of child  
33 neglect and dependency using a family-centered approach that is  
34 prevention oriented and addresses current and future harm to the child,  
35 the family's strengths and needs, and the reported allegations.

36 (11b) Investigative assessment response. – A response to allegations of child  
37 abuse and selected reports of child maltreatment using a formal  
38 information gathering process to determine whether the abuse or  
39 maltreatment has occurred and to provide necessary services to prevent  
40 further abuse or maltreatment.

41 (12) Judge. – Any district court judge.

42 (13) Judicial district. – Any district court district as established by G.S.  
43 7A-133.

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

37 The singular includes the plural, the masculine singular includes the feminine  
38 singular and masculine and feminine plural unless otherwise specified."

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

40 **"§ 7B-300. Protective services.**

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

43 Protective services shall include the ~~investigation~~-assessment and screening of  
44 complaints, casework, or other counseling services to parents, guardians, or other

1 caretakers as provided by the director to help the parents, guardians, or other caretakers  
2 and the court to prevent abuse or neglect, to improve the quality of child care, to be  
3 more adequate parents, guardians, or caretakers, and to preserve and stabilize family  
4 life.

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

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

8 "**§ 7B-301. Duty to report abuse, neglect, dependency, or death due to**  
9 **maltreatment.**

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

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

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

35 "**§ 7B-302. ~~Investigation—Assessment~~ by director; access to confidential**  
36 **information; notification of person making the report.**

37 (a) When a report of abuse, neglect, or dependency is received, the director of the  
38 department of social services shall make a prompt and thorough ~~investigation~~  
39 assessment, using either a family assessment response or an investigative assessment  
40 response, in order to ascertain the facts of the case, the extent of the abuse or neglect,  
41 and the risk of harm to the juvenile, in order to determine whether protective services  
42 should be provided or the complaint filed as a petition. When the report alleges abuse,  
43 the director shall immediately, but no later than 24 hours after receipt of the report,  
44 initiate the ~~investigation~~ assessment. When the report alleges neglect or dependency,

1 the director shall initiate the ~~investigation~~-assessment within 72 hours following receipt  
2 of the report. When the report alleges abandonment, the director shall immediately  
3 initiate an investigation, take appropriate steps to assume temporary custody of the  
4 juvenile, and take appropriate steps to secure an order for nonsecure custody of the  
5 juvenile. The ~~investigation~~-assessment and evaluation shall include a visit to the place  
6 where the juvenile resides. When the report alleges abandonment, the investigation shall  
7 include a request from the director to law enforcement officials to investigate through  
8 the North Carolina Center for Missing Persons and other national and State resources  
9 whether the juvenile is a missing child. All information received by the department of  
10 social services, including the identity of the reporter, shall be held in strictest confidence  
11 by the department.

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

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

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

39 (d1) Whenever a juvenile is removed from the home of a parent, guardian,  
40 custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical  
41 abuse, the director shall conduct a thorough review of the background of the alleged  
42 abuser or abusers. This review shall include a criminal history check and a review of  
43 any available mental health records. If the review reveals that the alleged abuser or  
44 abusers have a history of violent behavior against people, the director shall petition the

1 court to order the alleged abuser or abusers to submit to a complete mental health  
2 evaluation by a licensed psychologist or psychiatrist.

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

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

30 (g) Within five working days after completion of the protective services  
31 ~~investigation,assessment~~, the director shall give subsequent written notice to the person  
32 making the report, unless requested by that person not to give notice, as to whether there  
33 is a finding of abuse, neglect, or dependency, whether the county department of social  
34 services is taking action to protect the juvenile, and what action it is taking, including  
35 whether or not a petition was filed. The person making the report shall be informed of  
36 procedures necessary to request a review by the prosecutor of the director's decision not  
37 to file a petition. A request for review by the prosecutor shall be made within five  
38 working days of receipt of the second notification. The second notification shall include  
39 notice that, if the person making the report is not satisfied with the director's decision,  
40 the person may request review of the decision by the prosecutor within five working  
41 days of receipt. The person making the report may waive the person's right to this  
42 notification, and no notification is required if the person making the report does not  
43 identify himself to the director."

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

1 **"§ 7B-303. Interference with ~~investigation~~assessment.**

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

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

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

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

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

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



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

2   "**§ 7B-305. Request for review by prosecutor.**

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

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

10   "**§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by**  
11       **local law enforcement; notification of Department of Health and Human**  
12       **Services and State Bureau of Investigation.**

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

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

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

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

40       (c) Upon completion of the ~~investigation,~~ assessment, the director shall give the  
41   Department written notification of the results of the investigation required by G.S.  
42   7B-302. Upon completion of an ~~investigation~~ assessment of sexual abuse in a child care  
43   facility, the director shall also make written notification of the results of the  
44   ~~investigation~~ assessment to the State Bureau of Investigation.

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

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

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

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

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

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

33 "§ **7B-309. Immunity of persons reporting and cooperating in an**  
34 **investigation-assessment.**

35 Anyone who makes a report pursuant to this Article, cooperates with the county  
36 department of social services in a protective services ~~inquiry~~ or  
37 ~~investigation-assessment~~, testifies in any judicial proceeding resulting from a protective  
38 services report or ~~investigation-assessment~~, or otherwise participates in the program  
39 authorized by this Article, is immune from any civil or criminal liability that might  
40 otherwise be incurred or imposed for that action provided that the person was acting in  
41 good faith. In any proceeding involving liability, good faith is presumed."

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

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

- 1 (1) When the director of the department of social services requests a  
2 petition alleging a juvenile to be abused, neglected, or dependent, or  
3 (2) When the director of the department of social services requests a  
4 petition alleging the obstruction of or interference with an  
5 ~~investigation~~assessment required by G.S. 7B-302."

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

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

8 ...

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

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

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

17 ...

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

21 **PART 2. SERVICE OF SUMMONS**

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

23 **"§ 7B-407. Service of summons.**

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

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

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

36 **PART 3. CONTINUANCES FOR TERMINATION OF PARENTAL RIGHTS**

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

38 "(d) The court may for good cause shown continue the hearing for such time as is  
39 reasonably required for receiving to receive additional evidence, any reports or  
40 assessments which the court has requested, or any other information needed in the best  
41 interests of the ~~juvenile~~juvenile and to allow for a reasonable time for the parties to  
42 conduct expeditious discovery. Otherwise, continuances shall be granted only in  
43 extraordinary circumstances when necessary for the proper administration of justice or  
44 in the best interest of the juvenile. If the court, pursuant to this subsection, continues the

1 hearing to a time that is more than 90 days from the filing of the initial petition or  
2 motion, the court shall reduce its order to writing and state in the written order its reason  
3 for granting the continuance."

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

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

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

12 (1) 60 days of the date the document is executed, or

13 (2) The date of entry of an order establishing paternity or an order for the  
14 payment of child support."

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

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

17 **"§ 115C-378. Children required to attend.**

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

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

35 All nonpublic schools receiving and instructing children of a compulsory school age  
36 shall be required to keep such records of attendance and render such reports of the  
37 attendance of such children and maintain such minimum curriculum standards as are  
38 required of public schools; and attendance upon such schools, if the school refuses or  
39 neglects to keep such records or to render such reports, shall not be accepted in lieu of  
40 attendance upon the public school of the district to which the child shall be assigned:  
41 Provided, that instruction in a nonpublic school shall not be regarded as meeting the  
42 requirements of the law unless the courses of instruction run concurrently with the term  
43 of the public school in the district and extend for at least as long a term.

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

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

## 31 **PART 6. MAINTAINING REGISTER OF FOSTER PARENT APPLICANTS**

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

33 "**§ 131D-10.6B. ~~Report of death.~~Maintaining a register of applicants by the**  
34 **Division of Social Services.**

35 (a) ~~A facility licensed under this Article shall notify the Department immediately~~  
36 ~~upon the death of any resident of the facility that occurs within seven days of physical~~  
37 ~~restraint of the resident, and shall notify the Department within three days of the death~~  
38 ~~of any resident of the facility resulting from violence, accident, suicide, or homicide.~~  
39 ~~The Department may assess a civil penalty of not less than five hundred dollars~~  
40 ~~(\$500.00) and not more than one thousand dollars (\$1,000) against a facility that fails to~~  
41 ~~notify the Department of a death and the circumstances surrounding the death known to~~  
42 ~~the facility. Chapter 150B of the General Statutes governs the assessment of a penalty~~  
43 ~~under this section. A civil penalty owed under this section may be recovered in a civil~~

1 ~~action brought by the Department or the Attorney General. The clear proceeds of the~~  
2 ~~penalty shall be remitted to the State Treasurer for deposit in accordance with State law.~~

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

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

8 (2) The date of the application.

9 (3) The applicant's supervising agency.

10 (4) Any mandated training completed by the applicant and the dates of  
11 training.

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

13 (6) The current licensing period.

14 (7) Any adverse licensing actions.

15 (8) Any other information deemed necessary by the Division of Social  
16 Services.

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

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

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

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

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

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

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

6 **"§ 143B-150.20. State Child Fatality Review Team; establishment; purpose;**  
7 **powers; duties; report by Division of Social Services.**

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

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

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

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

40       (d1) Pursuant to subsection (d) of this section, if a request for records by the State  
41 Child Fatality Review Team is denied or a response to its request is not immediately  
42 forthcoming, the State Child Fatality Review Team may apply for an order compelling  
43 disclosure. The application shall state, with reasonable particularity, factors supporting  
44 the need for an order compelling disclosure. The State Child Fatality Review Team shall

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

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

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

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

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

## 39 **PART 8. RESIDENCY**

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

42 "(d) If two or more county departments of social services differ regarding the legal  
43 residence of a minor in a child abuse, neglect, or dependency case, either county  
44 department of social services may refer the factual situation to the Department of Health



1 and Human Services, Division of Social Services. After reviewing the pertinent  
2 background facts of the case, the Director of the Division of Social Services or the  
3 Director's designee shall determine which county department of social services shall be  
4 responsible for providing protective services and financial support for the minor in  
5 question. Since the Department of Health and Human Services is the supervising agency  
6 under Chapter 108A of the General Statutes for the county-administered programs, the  
7 determination of the Director or the Director's designee regarding the minor's legal  
8 residence for social services purposes is binding upon the county departments of social  
9 services and counties and is not subject to judicial review."

10 **PART 9. EFFECTIVE DATE**

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