

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 277\*  
Committee Substitute Favorable 3/30/05

Short Title: Establish Child Assessment Responses.

(Public)

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Sponsors:

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Referred to:

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February 17, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FAMILY ASSESSMENT RESPONSES IN CASES IN WHICH CHILDREN ARE REPORTED TO BE NEGLECTED OR DEPENDENT AND FOR INVESTIGATIVE ASSESSMENT RESPONSES IN CASES IN WHICH CHILDREN ARE REPORTED TO BE ABUSED.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7B-101 reads as rewritten:

**"§ 7B-101. Definitions.**

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

- (1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
  - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
  - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
  - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
  - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in ~~G.S. 14-178~~ and ~~G.S. 14-179~~; G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in

- 1 G.S. 14-190.5; employing or permitting the juvenile to assist in  
2 a violation of the obscenity laws as provided in G.S. 14-190.6;  
3 dissemination of obscene material to the juvenile as provided in  
4 G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating  
5 material harmful to the juvenile as provided in G.S. 14-190.14  
6 and G.S. 14-190.15; first and second degree sexual exploitation  
7 of the juvenile as provided in G.S. 14-190.16 and  
8 G.S. 14-190.17; promoting the prostitution of the juvenile as  
9 provided in G.S. 14-190.18; and taking indecent liberties with  
10 the juvenile, as provided in ~~G.S. 14-202.1, regardless of the age~~  
11 ~~of the parties; G.S. 14-202.1;~~  
12 e. Creates or allows to be created serious emotional damage to the  
13 juvenile; serious emotional damage is evidenced by a juvenile's  
14 severe anxiety, depression, withdrawal, or aggressive behavior  
15 toward himself or others; or  
16 f. Encourages, directs, or approves of delinquent acts involving  
17 moral turpitude committed by the juvenile.
- 18 (2) Aggravated circumstances. – Any circumstance attending to the  
19 commission of an act of abuse or neglect which increases its enormity  
20 or adds to its injurious consequences, including, but not limited to,  
21 abandonment, torture, chronic abuse, or sexual abuse.
- 22 (3) Caretaker. – Any person other than a parent, guardian, or custodian  
23 who has responsibility for the health and welfare of a juvenile in a  
24 residential setting. A person responsible for a juvenile's health and  
25 welfare means a stepparent, foster parent, an adult member of the  
26 juvenile's household, an adult relative entrusted with the juvenile's  
27 care, any person such as a house parent or cottage parent who has  
28 primary responsibility for supervising a juvenile's health and welfare  
29 in a residential child care facility or residential educational facility, or  
30 any employee or volunteer of a division, institution, or school operated  
31 by the Department of Health and Human Services. "Caretaker" also  
32 means any person who has the responsibility for the care of a juvenile  
33 in a child care facility as defined in Article 7 of Chapter 110 of the  
34 General Statutes and includes any person who has the approval of the  
35 care provider to assume responsibility for the juveniles under the care  
36 of the care provider. Nothing in this subdivision shall be construed to  
37 impose a legal duty of support under Chapter 50 or Chapter 110 of the  
38 General Statutes. The duty imposed upon a caretaker as defined in this  
39 subdivision shall be for the purpose of this Subchapter only.
- 40 (4) Clerk. – Any clerk of superior court, acting clerk, or assistant or  
41 deputy clerk.
- 42 (5) Community-based program. – A program providing nonresidential or  
43 residential treatment to a juvenile in the community where the  
44 juvenile's family lives. A community-based program may include

- 1 specialized foster care, family counseling, shelter care, and other  
2 appropriate treatment.
- 3 (6) Court. – The district court division of the General Court of Justice.
- 4 (7) Court of competent jurisdiction. – A court having the power and  
5 authority of law to act at the time of acting over the subject matter of  
6 the cause.
- 7 (7a) ~~"Criminal history" means a~~Criminal history. – A local, State, or  
8 federal criminal history of conviction or pending indictment of a  
9 crime, whether a misdemeanor or a felony, involving violence against  
10 a person.
- 11 (8) Custodian. – The person or agency that has been awarded legal  
12 custody of a juvenile by a court or a person, other than parents or legal  
13 guardian, who has assumed the status and obligation of a parent  
14 without being awarded the legal custody of a juvenile by a court.
- 15 (9) Dependent juvenile. – A juvenile in need of assistance or placement  
16 because the juvenile has no parent, guardian, or custodian responsible  
17 for the juvenile's care or supervision or whose parent, guardian, or  
18 custodian is unable to provide for the care or supervision and lacks an  
19 appropriate alternative child care arrangement.
- 20 (10) Director. – The director of the county department of social services in  
21 the county in which the juvenile resides or is found, or the director's  
22 representative as authorized in G.S. 108A-14.
- 23 (11) District. – Any district court district as established by G.S. 7A-133.
- 24 (11a) Family assessment response. – A response to selected reports of child  
25 neglect and dependency as determined by the Director using a family-  
26 centered approach that is protection and prevention oriented and that  
27 evaluates the strengths and needs of the juvenile's family, as well as  
28 the condition of the juvenile.
- 29 (11b) Investigative assessment response. – A response to reports of child  
30 abuse and selected reports of child neglect and dependency as  
31 determined by the Director using a formal information gathering  
32 process to determine whether a juvenile is abused, neglected, or  
33 dependent.
- 34 (12) Judge. – Any district court judge.
- 35 (13) Judicial district. – Any district court district as established by  
36 G.S. 7A-133.
- 37 (14) Juvenile. – A person who has not reached the person's eighteenth  
38 birthday and is not married, emancipated, or a member of the armed  
39 forces of the United States.
- 40 (15) Neglected juvenile. – A juvenile who does not receive proper care,  
41 supervision, or discipline from the juvenile's parent, guardian,  
42 custodian, or caretaker; or who has been abandoned; or who is not  
43 provided necessary medical care; or who is not provided necessary  
44 remedial care; or who lives in an environment injurious to the

1 juvenile's welfare; or who has been placed for care or adoption in  
2 violation of law. In determining whether a juvenile is a neglected  
3 juvenile, it is relevant whether that juvenile lives in a home where  
4 another juvenile has died as a result of suspected abuse or neglect or  
5 lives in a home where another juvenile has been subjected to abuse or  
6 neglect by an adult who regularly lives in the home.

7 (16) Petitioner. – The individual who initiates court action, whether by the  
8 filing of a petition or of a motion for review alleging the matter for  
9 adjudication.

10 (17) Prosecutor. – The district attorney or assistant district attorney  
11 assigned by the district attorney to juvenile proceedings.

12 (18) Reasonable efforts. – The diligent use of preventive or reunification  
13 services by a department of social services when a juvenile's remaining  
14 at home or returning home is consistent with achieving a safe,  
15 permanent home for the juvenile within a reasonable period of time. If  
16 a court of competent jurisdiction determines that the juvenile is not to  
17 be returned home, then reasonable efforts means the diligent and  
18 timely use of permanency planning services by a department of social  
19 services to develop and implement a permanent plan for the juvenile.

20 (19) Safe home. – A home in which the juvenile is not at substantial risk of  
21 physical or emotional abuse or neglect.

22 (20) Shelter care. – The temporary care of a juvenile in a physically  
23 unrestricting facility pending court disposition.

24 The singular includes the plural, the masculine singular includes the feminine  
25 singular and masculine and feminine plural unless otherwise specified."

26 **SECTION 2.** G.S. 7B-300 reads as rewritten:

27 "**§ 7B-300. Protective services.**

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

30 Protective services shall include the ~~investigation and screening of complaints,~~  
31 reports, the performance of an assessment using either a family assessment response or  
32 an investigative assessment response, casework, or other counseling services to parents,  
33 guardians, or other caretakers as provided by the director to help the parents, guardians,  
34 or other caretakers and the court to prevent abuse or neglect, to improve the quality of  
35 child care, to be more adequate parents, guardians, or caretakers, and to preserve and  
36 stabilize family life.

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

39 **SECTION 3.** G.S. 7B-301 reads as rewritten:

40 "**§ 7B-301. Duty to report abuse, neglect, dependency, or death due to**  
41 **maltreatment.**

42 Any person or institution who has cause to suspect that any juvenile is abused,  
43 neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of  
44 maltreatment, shall report the case of that juvenile to the director of the department of

1 social services in the county where the juvenile resides or is found. The report may be  
2 made orally, by telephone, or in writing. The report shall include information as is  
3 known to the person making it including the name and address of the juvenile; the name  
4 and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the  
5 names and ages of other juveniles in the home; the present whereabouts of the juvenile  
6 if not at the home address; the nature and extent of any injury or condition resulting  
7 from abuse, neglect, or dependency; and any other information which the person  
8 making the report believes might be helpful in establishing the need for protective  
9 services or court intervention. If the report is made orally or by telephone, the person  
10 making the report shall give the person's name, address, and telephone number. Refusal  
11 of the person making the report to give a name shall not preclude the department's  
12 ~~investigation-~~ assessment of the alleged abuse, neglect, dependency, or death as a result  
13 of maltreatment.

14 Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the  
15 director shall notify the State Bureau of Investigation within 24 hours or on the next  
16 workday. If sexual abuse in a child care facility is not alleged in the initial report, but  
17 during the course of the ~~investigation-~~ assessment there is reason to suspect that sexual  
18 abuse has occurred, the director shall immediately notify the State Bureau of  
19 Investigation. Upon notification that sexual abuse may have occurred in a child care  
20 facility, the State Bureau of Investigation may form a task force to investigate the  
21 report."

22 **SECTION 4.** G.S. 7B-302 reads as rewritten:

23 "**§ 7B-302. ~~Investigation-~~ Assessment by director; access to confidential**  
24 **information; notification of person making the report.**

25 (a) When a report of abuse, neglect, or dependency is received, the director of the  
26 department of social services shall make a prompt and thorough ~~investigation~~  
27 assessment, using either a family assessment response or an investigative assessment  
28 response, in order to ascertain the facts of the case, the extent of the abuse or neglect,  
29 and the risk of harm to the juvenile, in order to determine whether protective services  
30 should be provided or the complaint filed as a petition. When the report alleges abuse,  
31 the director shall immediately, but no later than 24 hours after receipt of the report,  
32 initiate the ~~investigation-~~ assessment. When the report alleges neglect or dependency,  
33 the director shall initiate the ~~investigation-~~ assessment within 72 hours following receipt  
34 of the report. When the report alleges abandonment, the director shall immediately  
35 initiate an ~~investigation,~~ assessment, take appropriate steps to assume temporary  
36 custody of the juvenile, and take appropriate steps to secure an order for nonsecure  
37 custody of the juvenile. The ~~investigation-~~ assessment and evaluation shall include a  
38 visit to the place where the juvenile ~~resides-resides,~~ except when the report alleges  
39 abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the  
40 General Statutes. When a report alleges abuse or neglect in a child care facility as  
41 defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the  
42 juvenile resides is not required. When the report alleges abandonment, the ~~investigation~~  
43 assessment shall include a request from the director to law enforcement officials to  
44 investigate through the North Carolina Center for Missing Persons and other national

1 and State resources whether the juvenile is a missing child. All information received by  
2 the department of social services, including the identity of the reporter, shall be held in  
3 strictest confidence by the department.

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

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

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

31 (d1) Whenever a juvenile is removed from the home of a parent, guardian,  
32 custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical  
33 abuse, the director shall conduct a thorough review of the background of the alleged  
34 abuser or abusers. This review shall include a criminal history check and a review of  
35 any available mental health records. If the review reveals that the alleged abuser or  
36 abusers have a history of violent behavior against people, the director shall petition the  
37 court to order the alleged abuser or abusers to submit to a complete mental health  
38 evaluation by a licensed psychologist or psychiatrist.

39 (e) In performing any duties related to the ~~investigation~~ assessment of the  
40 ~~complaint~~ report or the provision or arrangement for protective services, the director  
41 may consult with any public or private agencies or individuals, including the available  
42 State or local law enforcement officers who shall assist in the ~~investigation~~ assessment  
43 and evaluation of the seriousness of any report of abuse, neglect, or dependency when  
44 requested by the director. The director or the director's representative may make a

1 written demand for any information or reports, whether or not confidential, that may in  
2 the director's opinion be relevant to the ~~investigation of or the provision for~~ assessment  
3 or provision of protective services. Upon the director's or the director's representative's  
4 request and unless protected by the attorney-client privilege, any public or private  
5 agency or individual shall provide access to and copies of this confidential information  
6 and these records to the extent permitted by federal law and regulations. If a custodian  
7 of criminal investigative information or records believes that release of the information  
8 will jeopardize the right of the State to prosecute a defendant or the right of a defendant  
9 to receive a fair trial or will undermine an ongoing or future investigation, it may seek  
10 an order from a court of competent jurisdiction to prevent disclosure of the information.  
11 In such an action, the custodian of the records shall have the burden of showing by a  
12 preponderance of the evidence that disclosure of the information in question will  
13 jeopardize the right of the State to prosecute a defendant or the right of a defendant to  
14 receive a fair trial or will undermine an ongoing or future investigation. Actions brought  
15 pursuant to this paragraph shall be set down for immediate hearing, and subsequent  
16 proceedings in the actions shall be accorded priority by the trial and appellate courts.

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

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

36 (h) The director or the director's representative may not enter a private residence  
37 for ~~investigation~~ assessment purposes without at least one of the following:

- 38 (1) The reasonable belief that a juvenile is in imminent danger of death or  
39 serious physical injury.
- 40 (2) The permission of the parent or person responsible for the juvenile's  
41 care.
- 42 (3) The accompaniment of a law enforcement officer who has legal  
43 authority to enter the residence.
- 44 (4) An order from a court of competent jurisdiction."

1           **SECTION 5.** G.S. 7B-303 reads as rewritten:

2   "**§ 7B-303. Interference with ~~investigation.~~ assessment.**

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

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

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

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

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



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

3 **SECTION 6.** G.S. 7B-305 reads as rewritten:

4 **"§ 7B-305. Request for review by prosecutor.**

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

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

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

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

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

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

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

42 (c) Upon completion of the ~~investigation-~~ assessment, the director shall give the  
43 Department written notification of the results of the ~~investigation-~~ assessment required  
44 by G.S. 7B-302. Upon completion of an ~~investigation-~~ assessment of sexual abuse in a

1 child care facility, the director shall also make written notification of the results of the  
2 ~~investigation~~ assessment to the State Bureau of Investigation.

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

7 **SECTION 8.** G.S. 7B-308(b) reads as rewritten:

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

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

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

34 **SECTION 9.** G.S. 7B-309 reads as rewritten:

35 "**§ 7B-309. Immunity of persons reporting and cooperating in an ~~investigation-~~**  
36 **assessment.**

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

44 **SECTION 10.** G.S. 7B-404(a) reads as rewritten:

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

3           (1) When the director of the department of social services requests a  
4 petition alleging a juvenile to be abused, neglected, or dependent, or

5           (2) When the director of the department of social services requests a  
6 petition alleging the obstruction of or interference with an  
7 ~~investigation~~ assessment required by G.S. 7B-302."

8       **SECTION 11.** G.S. 7B-506(h)(3) reads as rewritten:

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

15       "**§ 108A-14. Duties and responsibilities.**

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

18           ...

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

22       **SECTION 13.** The Department of Health and Human Services shall  
23 continue to assess the alternative response system of child protection as to the impact  
24 the system has in child safety, timeliness of response, timeliness of service, and  
25 coordination of local human services. The Department shall report the status of its  
26 evaluation to the Legislative Study Commission on Children and Youth, the Senate  
27 Appropriations Committee on Health and Human Services, the House of  
28 Representatives Appropriations Subcommittee on Health and Human Services, and the  
29 Fiscal Research Division before the convening of the 2006 Regular Session of the 2005  
30 General Assembly.

31       **SECTION 14.** This act becomes effective October 1, 2005.