

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

HOUSE BILL 350  
RATIFIED BILL

AN ACT TO MAKE VARIOUS CHANGES TO THE JUVENILE CODE PURSUANT TO REVISIONS PROPOSED BY THE COURT IMPROVEMENT PROJECT.

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:

- ...
- (5) ~~Community-based program. — A program providing nonresidential or residential treatment to a juvenile in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.~~
- ...
- (8) ~~Custodian. — The person or agency that has been awarded legal custody of a juvenile by a court or a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.~~
- (9) ~~Dependent juvenile. — A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose (ii) the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.~~
- ...
- (18b) Return home or reunification. — Placement of the juvenile in the home of either parent or placement of the juvenile in the home of a guardian or custodian from whose home the child was removed by court order.
- ...
- (20) ~~Shelter care. — The temporary care of a juvenile in a physically unrestricting facility pending court disposition.~~
- ...

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

**SECTION 2.** G.S. 7B-200(b) reads as rewritten:

"(b) The court shall have jurisdiction over the ~~parent or guardian~~parent, guardian, custodian, or caretaker of a juvenile who has been adjudicated abused, neglected, or dependent, ~~as provided by G.S. 7B-904,~~provided the parent or guardian~~parent, guardian, custodian, or caretaker~~ has (i) been properly served with summons pursuant to ~~G.S. 7B-406.~~G.S. 7B-406, (ii) waived service of process, or (iii) automatically become a party pursuant to G.S. 7B-401.1(c) or (d)."

**SECTION 3.** G.S. 7B-311(b)(2) reads as rewritten:

"(b) The Department shall also maintain a list of responsible individuals. The Department may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children. The name of an individual who has been identified as a responsible individual shall be placed on the responsible individuals list only after one of the following:



- ...
- (2) The court determines that the individual is a responsible individual as a result of a hearing ~~either on the individual's petition for judicial review.~~
- a. ~~On the individual's petition for judicial review; or~~
- b. ~~On a juvenile petition that alleges and seeks a determination that the individual is a responsible person.~~
- ...."

**SECTION 4.** G.S. 7B-320 reads as rewritten:

**"§ 7B-320. Notification to individual determined to be a responsible individual.**

(a) Within five working days after the completion of an investigative assessment response that results in a determination of abuse or serious neglect and the identification of a responsible individual, the director shall personally deliver written notice of the determination to the identified individual.

(b) If personal written notice is not made within 15 days of the ~~determination,~~ determination and the director has made diligent efforts to locate the identified individual, the director shall send the notice to the ~~identified~~ individual by registered or certified mail, ~~restricted delivery,~~ return receipt requested, and addressed to the individual at the individual's last known address.

(c) The notice shall include all of the following:

- (1) A statement informing the individual of the nature of the investigative assessment response and whether the director determined abuse or serious neglect or both.
- (1a) A statement that the individual has been identified as a responsible individual.
- (2) A statement summarizing the substantial evidence supporting the director's determination without identifying the reporter or collateral contacts.
- (3) A statement informing the individual that unless the individual petitions for judicial review, the individual's name will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.
- (4) A clear description of the actions the individual must take to seek judicial review of the director's determination.

(d) In addition to the notice, the director shall provide the individual with a copy of a petition for judicial review ~~form and instructions for how to file and serve the petition form.~~"

**SECTION 5.** G.S. 7B-323 reads as rewritten:

....

(a1) If the director cannot show that the individual has received actual notice, the director shall not place the individual on the responsible individuals list until an ex parte hearing is held at which a district court judge determines that the director made diligent efforts to find the individual. A finding that the individual is evading service is relevant to the determination that the director made diligent efforts.

(b) The clerk of court shall maintain a separate docket for judicial review actions. Upon the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within ~~15-45~~ days from the date the petition is filed at a session of district court hearing juvenile matters or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of the hearing to the petitioner and to the director who determined the abuse or serious neglect and identified the individual as a responsible individual. Upon the request of a party, the court shall close the hearing to all persons, except officers of the court, the parties, and their witnesses. At the hearing, the director shall have the burden of proving by a preponderance of the evidence the abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. The hearing shall be before a judge without a jury. The rules of evidence applicable in civil cases shall apply. However, the court, in its discretion, may permit the admission of any reliable and relevant evidence if the general purposes of the rules of evidence and the interests of justice will best be served by its admission.

...."

**SECTION 6.** G.S. 7B-324 reads as rewritten:

**"§ 7B-324. Persons ineligible to petition for judicial review; ~~stay of judicial review proceeding pending juvenile court case.~~review.**

(a) An individual who has been identified by a director as a responsible individual may not petition for judicial review if any of the following apply:

- (1) The individual is criminally convicted as a result of the same incident. The district attorney shall inform the director of the result of the criminal proceeding.
- (2) ~~The individual is a respondent in a juvenile court proceeding regarding abuse or neglect resulting from the same incident that concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected the juvenile and is a responsible individual.~~
- (3) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.
- (4) After proper notice, the individual fails to file a petition for judicial review with the district court in a timely manner.
- (5) Repealed by Session Laws 2010-90, s. 8, effective July 11, 2010.

(b) ~~If an individual seeking judicial review is named as a respondent in a juvenile court case or a defendant in a criminal court case resulting from the same incident, the district court judge may stay the judicial review proceeding or consolidate the proceeding with the juvenile court case. If the juvenile court case is involuntarily dismissed, or concludes without an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected a juvenile and is a responsible individual, the director shall not place the individual's name on the responsible individuals list. If a juvenile court case concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected a juvenile and is a responsible individual, the director shall place that individual's name on the responsible individuals list, consistent with the court's order.~~proceeding."

**SECTION 7.** G.S. 7B-400 reads as rewritten:

**"§ 7B-400. Venue.**

(a) A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. Notwithstanding G.S. 153A-257, the absence of a juvenile from the juvenile's home pursuant to a protection plan during an assessment or the provision of case management services by a department of social services shall not change the original venue if it subsequently becomes necessary to file a juvenile petition.

(b) When the director in one county conducts an assessment pursuant to G.S. 7B-302 in another county because a conflict of interest exists, the director in the county conducting the assessment may file a resulting petition in either county.

(c) For good cause, the court may grant motion for change of venue before adjudication. A pre-adjudication change of venue shall not affect the identity of the petitioner.

(d) Any change of venue after adjudication shall be pursuant to G.S. 7B-900.1."

**SECTION 8.** G.S. 7B-401 reads as rewritten:

**"§ 7B-401. Pleading and process.**

(a) The pleading in an abuse, neglect, or dependency action is the petition. The process in an abuse, neglect, or dependency action is the summons.

(b) If the court has retained jurisdiction over a juvenile whose custody was granted to a parent and there are no periodic judicial reviews of the placement, the provisions of Article 8 of this subchapter shall apply to any subsequent report of abuse, neglect, or dependency determined by the director of social services to require court action pursuant to G.S. 7B-302."

**SECTION 9.** Article 4 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

**"§ 7B-401.1. Parties.**

(a) Petitioner. – Only a county director of social services or the director's authorized representative may file a petition alleging that a juvenile is abused, neglected, or dependent. The petitioner shall remain a party until the court terminates its jurisdiction in the case.

(b) Parents. – The juvenile's parent shall be a party unless one of the following applies:

- (1) The parent's rights have been terminated.
- (2) The parent has relinquished the juvenile for adoption, unless the court orders that the parent be made a party.
- (3) The parent has been convicted under G.S. 14-27.2 or G.S. 14-27.3 for an offense that resulted in the conception of the juvenile.

(c) Guardian. – A person who is the child's court-appointed guardian of the person or general guardian when the petition is filed shall be a party. A person appointed as the child's guardian pursuant to G.S. 7B-600 shall automatically become a party but only if the court has found that the guardianship is the permanent plan for the juvenile.

(d) Custodian. – A person who is the juvenile's custodian, as defined in G.S. 7B-101(8), when the petition is filed shall be a party. A person to whom custody of the juvenile is awarded in the juvenile proceeding shall automatically become a party but only if the court has found that the custody arrangement is the permanent plan for the juvenile.

(e) Caretaker. – A caretaker shall be a party only if (i) the petition includes allegations relating to the caretaker, (ii) the caretaker has assumed the status and obligation of a parent, or (iii) the court orders that the caretaker be made a party.

(f) The Juvenile. – The juvenile shall be a party.

(g) Removal of a Party. – If a guardian, custodian, or caretaker is a party, the court may discharge that person from the proceeding, making the person no longer a party, if the court finds that the person does not have legal rights that may be affected by the action and that the person's continuation as a party is not necessary to meet the juvenile's needs.

(h) Intervention. – Except as provided in G.S. 7B-1103(b), the court shall not allow intervention by a person who is not the juvenile's parent, guardian, custodian, or caretaker but may allow intervention by another county department of social services that has an interest in the proceeding. This section shall not prohibit the court from consolidating a juvenile proceeding with a civil action or claim for custody pursuant to G.S. 7B-200."

**SECTION 10.** G.S. 7B-402 reads as rewritten:

**"§ 7B-402. Petition.**

(a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of ~~the juvenile's parent, guardian, or custodian,~~ each party as determined by G.S. 7B-401.1, and allegations of facts sufficient to invoke jurisdiction over the juvenile. ~~A petition alleging that a juvenile is abused or neglected may also allege and seek a determination that a respondent is a responsible individual as defined in G.S. 7B-101(18a). A person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile need not be named in the petition.~~ The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

(b) The petition, or an affidavit attached to the petition, shall contain the information required by G.S. 50A-209.

(c) Sufficient copies of the petition shall be prepared so that copies will be available for each ~~parent if living separate and apart, the guardian, custodian, or caretaker,~~ party named in the petition, except the juvenile, and for the juvenile's guardian ad litem, the social worker, and any person determined by the court to be a necessary party.

(d) If the petition is filed in a county other than the county of the juvenile's residence, the petitioner shall provide a copy of the petition and any notices of hearing to the director of the department of social services in the county of the juvenile's residence."

**SECTION 11.** G.S. 7B-406 reads as rewritten:

**"§ 7B-406. Issuance of summons.**

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to ~~the parent, guardian, custodian, or caretaker,~~ each party named in the petition, except the juvenile, requiring them to appear for a hearing at the time and place stated in the summons. ~~No summons is required for any person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile.~~ A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include each of the following:

- (1) Notice of the nature of the proceeding.
- (2) Notice of any right to counsel and information about how ~~to a parent may seek the appointment of counsel prior to a hearing,~~ hearing if provisional counsel is not identified.
- (2a) ~~Notice that, if the petition alleges and the court determines that the respondent is a responsible individual, the respondent's name will be placed~~

~~on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from the list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.~~

- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State.
- (4) Notice that the dispositional order or a subsequent order:
  - a. May remove the juvenile from the custody of the parent, guardian, or custodian.
  - b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
  - c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
  - d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
  - e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent that upon service, jurisdiction over that person is obtained and that failure to comply with any order of the court pursuant to G.S. 7B-904 may cause the court to issue a show cause order for contempt.

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process."

**SECTION 12.** G.S. 7B-407 reads as rewritten:

**"§ 7B-407. Service of summons.**

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

~~If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition service by publication under G.S. 1A-1, Rule 4(j1). The Rule 4(j1) is required, the cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.~~

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

**SECTION 13.** G.S. 7B-505 reads as rewritten:

**"§ 7B-505. Place of Placement while in nonsecure custody.**

(a) A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure custody with the department of social services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care; or
- (2) A facility operated by the department of social services; or
- (3) Any other home or facility, including a relative's home approved by the court and designated in the order.

(b) In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile.

(c) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin is willing and able to provide proper care and supervision of the juvenile in a safe home. Nonrelative kin is an individual having a substantial relationship with the juvenile. In the case of a juvenile member of a State-recognized tribe as set forth in G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or a member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile. The court may order the Department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's best interests.

(d) In placing a juvenile in nonsecure custody under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children, Article 38 of this Chapter."

**SECTION 14.** G.S. 7B-506 reads as rewritten:

**"§ 7B-506. Hearing to determine need for continued nonsecure custody.**

...  
(b) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's parent, guardian, custodian, or caretaker the right to introduce evidence, to be heard in the person's own behalf, and to examine witnesses. The State-petitioner shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall not be bound by the usual rules of evidence at such hearings.

...  
(g) ~~Reserved.~~In addition to the hearings required under this section, any party may schedule a hearing on the issue of placement.

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

(1) Inquire as to the identity and location of any missing parent and as to whether paternity is at issue. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent, as well as efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts aimed at determining the identity and location of any missing parent, as well as specific efforts aimed at establishing paternity.

(2) Inquire about efforts made to identify and notify relatives as potential resources for placement or support and as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter; and Chapter.

(2a) If the court does not place the juvenile with a relative, the court may consider whether nonrelative kin is willing and able to provide proper care and supervision of the juvenile in a safe home. Nonrelative kin is an individual having a substantial relationship with the juvenile. In the case of a juvenile member of a State-recognized tribe as set forth in G.S. 143B-407(a), nonrelative kin also includes any member of a State-recognized tribe or a

member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile. The court may order the Department to notify the juvenile's State-recognized tribe of the need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement. The court may order placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's best interests.

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

**SECTION 15.** G.S. 7B-507(c) reads as rewritten:

"(c) When the court determines that reunification efforts are not required or shall cease, the court shall order a plan for permanence as soon as possible, after providing each party with a reasonable opportunity to prepare and present evidence. If the court's determination to cease reunification efforts is made in a hearing that was duly and timely noticed as a permanency planning hearing, then the court may immediately proceed to consider all of the criteria contained in ~~G.S. 7B-907(b)~~, G.S. 7B-906.1(e), make findings of fact, and set forth the best plan of care to achieve a safe, permanent home within a reasonable period of time. If the court's decision to cease reunification efforts arises in any other hearing, the court shall schedule a subsequent hearing within 30 days to address the permanent plan in accordance with ~~G.S. 7B-907~~, G.S. 7B-906.1. At any hearing at which the court orders that reunification efforts shall cease, the affected parent, guardian, or custodian may give notice to preserve the right to appeal that order in accordance with G.S. 7B-1001. The party giving notice shall be permitted to make a detailed offer of proof as to any evidence that party sought to offer in opposition to cessation of reunification that the court refused to admit."

**SECTION 16.** G.S. 7B-600 reads as rewritten:

**"§ 7B-600. Appointment of guardian.**

(a) In any case when no parent appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the Armed Forces of the United States, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is ~~in the best interest of the juvenile and has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile and~~ appoints a guardian under this section, the guardian is becomes a party to the proceeding, the proceeding. The court may not terminate the guardianship or order that the juvenile be reintegrated into a parent's home unless only if (i) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, that (ii) the guardian is unfit, that (iii) the guardian has neglected a guardian's duties, or that (iv) the guardian is unwilling or unable to continue assuming a guardian's duties.

~~(b1) If a party files a motion or petition under G.S. 7B-906~~ under G.S. 7B-906.1 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

- (1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.
- (2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.

- (3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.
- (4) Take any other action necessary in order to make a determination in a particular case.

(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile."

**SECTION 17.** G.S. 7B-602 reads as rewritten:

**"§ 7B-602. Parent's right to counsel; guardian ad litem.**

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons or attached notice. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent.

The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. The court's examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent who is under the age of 18 years and who is not married or otherwise emancipated. The appointment of a guardian ad litem under this subsection shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event that the minor parent is the subject of a separate juvenile petition.

~~(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17, if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest. The parent's counsel shall not be appointed to serve as the guardian ad litem. Rule 17.~~

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

~~(e) Guardians ad litem appointed under this section may engage in all of the following practices:~~

- ~~(1) Helping the parent to enter consent orders, if appropriate.~~
- ~~(2) Facilitating service of process on the parent.~~
- ~~(3) Assuring that necessary pleadings are filed.~~
- ~~(4) Assisting the parent and the parent's counsel, if requested by the parent's counsel, to ensure that the parent's procedural due process requirements are met."~~

**SECTION 18.** Article 8 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

**"§ 7B-800.1. Pre-adjudication hearing.**

- (a) Prior to the adjudicatory hearing, the court shall consider the following:
  - (1) Retention or release of provisional counsel.



- (2) Identification of the parties to the proceeding.
  - (3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
  - (4) Whether relatives have been identified and notified as potential resources for placement or support.
  - (5) Whether all summons, service of process, and notice requirements have been met.
  - (6) Any pretrial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance of the adjudicatory hearing in accordance with G.S. 7B-803.
  - (7) Any other issue that can be properly addressed as a preliminary matter.
- (b) The pre-adjudication hearing may be combined with a hearing on the need for nonsecure custody or any pretrial hearing or conducted in accordance with local rules.
- (c) The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G.S. 7B-801."

**SECTION 19.** G.S. 7B-803 reads as rewritten:

**"§ 7B-803. Continuances.**

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting a continuance."

**SECTION 20.** G.S. 7B-805 reads as rewritten:

**"§ 7B-805. Quantum of proof in adjudicatory hearing.**

The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. ~~Allegations in a petition alleging that a respondent is a responsible individual who has abused or seriously neglected a juvenile shall be proved by a preponderance of the evidence."~~

**SECTION 21.** G.S. 7B-807 reads as rewritten:

**"§ 7B-807. Adjudication.**

(a) If the court finds from the evidence, including stipulations by a party, that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. A record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

~~(a1) After an adjudication that a juvenile is abused or neglected, if the petition alleges and the court determines by a preponderance of the evidence that a respondent has abused or seriously neglected a juvenile and is a responsible individual, the court shall order the placement of that individual's name on the responsible individuals list as provided in G.S. 7B-311.~~

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection."

**SECTION 22.** G.S. 7B-901 reads as rewritten:

**"§ 7B-901. Dispositional hearing.**

The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing. The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have the right to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, including testimony or evidence from any person who is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

At the dispositional hearing, the court shall inquire as to the identity and location of any missing parent and whether paternity is at issue. The court shall include findings of the efforts undertaken to locate the missing parent and to serve that parent and efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts in determining the identity and location of any missing parent and specific efforts in establishing paternity. The court shall also inquire about efforts made to identify and notify relatives as potential resources for placement or support."

**SECTION 23.** G.S. 7B-905 reads as rewritten:

**"§ 7B-905. Dispositional order.**

(a) The dispositional order shall be in writing, signed, and entered no later than 30 days from the completion of the hearing, and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(b) A dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker shall direct that the review hearing required by ~~G.S. 7B-906~~G.S. 7B-906.1 be held within 90 days from of the date of the dispositional hearing and, if practicable, shall set the date and time for the review hearing.

~~(c) Any dispositional order shall comply with the requirements of G.S. 7B-507. Any dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker, or under which the juvenile's placement is continued outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety. If the juvenile is placed in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved by the court. If the director subsequently makes a good faith determination that the visitation plan may not be in the best interests of the juvenile or consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subjected to any motion to show cause for this suspension, but shall expeditiously file a motion for review.~~

(d) When a county department of social services having custody or placement responsibility of a juvenile intends to change the juvenile's placement, the department shall give the guardian ad litem for the juvenile notice of its intention unless precluded by emergency circumstances from doing so. Where emergency circumstances exist, the department of social services shall notify the guardian ad litem or the attorney advocate within 72 hours of the placement change, unless local rules require notification within a shorter time period."

**SECTION 24.** Article 9 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

**"§ 7B-905.1. Visitation.**

(a) An order that removes custody of a juvenile from a parent, guardian, or custodian or that continues the juvenile's placement outside the home shall provide for appropriate visitation

as may be in the best interests of the juvenile consistent with the juvenile's health and safety. The court may specify in the order conditions under which visitation may be suspended.

(b) If the juvenile is placed or continued in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved or ordered by the court. The plan shall indicate the minimum frequency and length of visits and whether the visits shall be supervised. Unless the court orders otherwise, the director shall have discretion to determine who will supervise visits when supervision is required, to determine the location of visits, and to change the day and time of visits in response to scheduling conflicts, illness of the child or party, or extraordinary circumstances. The director shall promptly communicate a limited and temporary change in the visitation schedule to the affected party. Any ongoing change in the visitation schedule shall be communicated to the party in writing and state the reason for the change.

If the director makes a good faith determination that the visitation plan is not consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subject to any motion to show cause for this suspension but shall expeditiously file a motion for review.

(c) If the juvenile is placed or continued in the custody or guardianship of a relative or other suitable person, any order providing for visitation shall specify the minimum frequency and length of the visits and whether the visits shall be supervised. The court may authorize additional visitation as agreed upon by the respondent and custodian or guardian.

(d) If the court retains jurisdiction, all parties shall be informed of the right to file a motion for review of any visitation plan entered pursuant to this section. Upon motion of any party and after proper notice and a hearing, the court may establish, modify, or enforce a visitation plan that is in the juvenile's best interest. Prior to or at the hearing, the court may order the department and guardian ad litem to investigate and make written recommendations as to appropriate visitation and give testimony concerning its recommendations. For resolution of issues related to visitation, the court may order the parents, guardian, or custodian to participate in custody mediation where there is a program established pursuant to G.S. 7A-494. In referring a case to custody mediation, the court shall specify the issue or issues for mediation, including, but not limited to, whether or not visitation shall be supervised and whether overnight visitation may occur. Custody mediation shall not permit the participants to consent to a change in custody. A copy of any agreement reached in custody mediation shall be provided to all parties and counsel and shall be approved by the court. The provisions of G.S. 50-13.1(d) through (f) apply to this section."

**SECTION 25.** G.S. 7B-906 and G.S. 7B-907 are repealed.

**SECTION 26.** Article 9 of Chapter 7B of the General Statutes is amended by adding the following new section to read:

**"§ 7B-906.1. Review and permanency planning hearings.**

(a) In any case where custody is removed from a parent, guardian, or custodian, the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter. Within 12 months of the date of the initial order removing custody, there shall be a review hearing designated as a permanency planning hearing. Review hearings after the initial permanency planning hearing shall be designated as subsequent permanency planning hearings. The subsequent permanency planning hearings shall be held at least every six months thereafter or earlier as set by the court to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.

(b) The director of social services shall make a timely request to the clerk to calendar each hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to (i) the parents, (ii) the juvenile if 12 years of age or more, (iii) the guardian, (iv) the person providing care for the juvenile, (v) the custodian or agency with custody, (vi) the guardian ad litem, and (vii) any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the person providing care for the juvenile for notice under this subsection or file written documentation with the clerk that the juvenile's current care provider was sent notice of hearing. Nothing in this subsection shall be construed to make the person providing care for the juvenile a party to the proceeding solely based on receiving notice and the right to be heard.

(c) At each hearing, the court shall consider information from the parents, the juvenile, the guardian, any person providing care for the juvenile, the custodian or agency with custody, the guardian ad litem, and any other person or agency that will aid in the court's review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, or testimony or evidence from any person that is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(d) At each hearing, the court shall consider the following criteria and make written findings regarding those that are relevant:

- (1) Services which have been offered to reunite the juvenile with either parent whether or not the juvenile resided with the parent at the time of removal or the guardian or custodian from whom the child was removed.
- (2) Reports on visitation that has occurred and whether there is a need to create, modify, or enforce an appropriate visitation plan in accordance with G.S. 7B-905.1.
- (3) Whether efforts to reunite the juvenile with either parent clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time. The court shall consider efforts to reunite regardless of whether the juvenile resided with the parent, guardian, or custodian at the time of removal. If the court determines efforts would be futile or inconsistent, the court shall consider a permanent plan of care for the juvenile.
- (4) Reports on the placements the juvenile has had, the appropriateness of the juvenile's current foster care placement, and the goals of the juvenile's foster care plan, including the role the current foster parent will play in the planning for the juvenile.
- (5) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.
- (6) When and if termination of parental rights should be considered.
- (7) Any other criteria the court deems necessary.

(e) At any permanency planning hearing where the juvenile is not placed with a parent, the court shall additionally consider the following criteria and make written findings regarding those that are relevant:

- (1) Whether it is possible for the juvenile to be placed with a parent within the next six months and, if not, why such placement is not in the juvenile's best interests.
- (2) Where the juvenile's placement with a parent is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established and, if so, the rights and responsibilities that should remain with the parents.
- (3) Where the juvenile's placement with a parent is unlikely within six months, whether adoption should be pursued and, if so, any barriers to the juvenile's adoption.
- (4) Where the juvenile's placement with a parent is unlikely within six months, whether the juvenile should remain in the current placement, or be placed in another permanent living arrangement and why.
- (5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile.
- (6) Any other criteria the court deems necessary.

(f) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services and has been in placement outside the home for 12 of the most recent 22 months, or a court of competent jurisdiction has determined that the parent (i) has abandoned the child, (ii) has committed murder or voluntary manslaughter of another child of the parent, or (iii) has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, the director of the department of social services shall initiate a proceeding to terminate the parental rights of the parent unless the court finds any of the following:

- (1) The permanent plan for the juvenile is guardianship or custody with a relative or some other suitable person.
- (2) The court makes specific findings as to why the filing of a petition for termination of parental rights is not in the best interests of the child.
- (3) The department of social services has not provided the juvenile's family with services the department deems necessary when reasonable efforts are still required to enable the juvenile's return to a safe home.

(g) At the conclusion of each permanency planning hearing, the judge shall make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time.

(h) The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection.

(i) The court may maintain the juvenile's placement under review or order a different placement, appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600, or order any disposition authorized by G.S. 7B-903, including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile.

(j) If the court determines that the juvenile shall be placed in the custody of an individual other than a parent or appoints an individual guardian of the person pursuant to G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as guardian of the juvenile understands the legal significance of the placement or appointment and will have adequate resources to care appropriately for the juvenile.

(k) If at any time custody is placed with a parent or findings are made in accordance with subsection (n) of this section, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

(l) If the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-507 shall apply to any order entered under this section.

(m) If the court finds that a proceeding to terminate the parental rights of the juvenile's parents is necessary in order to perfect the permanent plan for the juvenile, the director of the department of social services shall file a petition to terminate parental rights within 60 calendar days from the date of the entry of the order unless the court makes written findings regarding why the petition cannot be filed within 60 days. If the court makes findings to the contrary, the court shall specify the time frame in which any needed petition to terminate parental rights shall be filed.

(n) Notwithstanding other provisions of this Article, the court may waive the holding of hearings required by this section, may require written reports to the court by the agency or person holding custody in lieu of review hearings, or order that review hearings be held less often than every six months if the court finds by clear, cogent, and convincing evidence each of the following:

- (1) The juvenile has resided in the placement for a period of at least one year.
- (2) The placement is stable and continuation of the placement is in the juvenile's best interests.
- (3) Neither the juvenile's best interests nor the rights of any party require that review hearings be held every six months.
- (4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review or on the court's own motion.
- (5) The court order has designated the relative or other suitable person as the juvenile's permanent custodian or guardian of the person.

The court may not waive or refuse to conduct a review hearing if a party files a motion seeking the review. However, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with subsection (n) of this section that

guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

**SECTION 27.** G.S. 7B-908 reads as rewritten:

**"§ 7B-908. Post termination of parental rights' placement court review.**

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, ~~the foster parent, relative, or preadoptive parent~~ the person providing care for the child, and any other person or agency the court determines is likely to aid in the review. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7B-1103(2) through (5) and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is the subject of a decree of adoption:

(1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the ~~foster parent, relative, or preadoptive parent~~ person providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify. The department of social services shall either provide to the clerk the name and address of the ~~foster parent, relative, or preadoptive parent~~ person providing care for the child for notice under this subsection or file written documentation with the clerk that the child's current care provider was sent notice of hearing. Only the juvenile, if the juvenile is at least 12 years of age, the legal custodian of the juvenile, the ~~foster parent, relative, or preadoptive parent~~ person providing care for the juvenile, and the guardian ad litem shall attend the review hearings, except as otherwise directed by the court. Nothing in this subdivision shall be construed to make the ~~foster parent, relative, or preadoptive parent~~ person a party to the proceeding solely based on receiving notice and the right to be heard. Any individual whose parental rights have been terminated shall not be considered a party to the proceeding unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal.

(2) If a guardian ad litem for the juvenile has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian ad litem to represent the juvenile. The court may continue the case for such time as is necessary for the guardian ad litem to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review and make written findings regarding the following that are relevant:

(1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the juvenile's best interests and the efforts of the department or agency to implement such plan.

(2) Whether the juvenile has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency.

(3) The efforts previously made by the department or agency to find a permanent home for the juvenile.

(4) Whether the current placement is in the juvenile's best interest.

(d) The court, after making findings of fact, shall do one of the following:

(1) Affirm the county department's or child-placing agency's plans.

(2) If a juvenile is not placed with prospective adoptive ~~parents~~ parents as selected in G.S. 7B-1112.1, order a placement or different plan the court

finds to be in the juvenile's best interest after considering the department's recommendations.

In either case, the court may require specific additional steps that are necessary to accomplish a permanent placement that is in the best interests of the juvenile.

(e) If the juvenile is the subject of a decree of adoption prior to the date scheduled for the review, within 10 days of receiving notice that the adoption decree has been entered, the department of social services shall file with the court and serve on any guardian ad litem for the juvenile written notice of the entry. The adoption decree shall not be filed in the court file. The review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified.

(f) Repealed by Session Laws 2011-295, s. 10, effective October 1, 2011, and applicable to actions filed or pending on or after that date."

**SECTION 28.** G.S. 7B-909 reads as rewritten:

**"§ 7B-909. Review of agency's plan for placement.**

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters ~~in any case where~~ matters. The review shall be held within six months of accepting a relinquishment of a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes unless the juvenile has become the subject of a decree of adoption.

~~(1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or~~

~~(2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.~~

(b) Repealed by 2007-276, s. 6, effective October 1, 2007.

(c) Notification of the court under this section shall be by a petition for review. ~~The petition shall set forth the circumstances necessitating the review under subsection (a) of this section.~~ review or motion for review, if the court is exercising jurisdiction over the juvenile. The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is the subject of a decree of adoption. The initial review and all subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental rights have been terminated or who has relinquished the juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes shall not be considered a party to the review unless an appeal of the order terminating parental rights is pending, and a court has stayed the order pending the appeal."

**SECTION 29.** G.S. 7B-911 reads as rewritten:

**"§ 7B-911. Civil child custody order.**

(a) ~~After making proper findings at a dispositional hearing or any subsequent hearing, Upon placing custody with a parent or other appropriate person, the court on its own motion or the motion of a party may award~~ shall determine whether or not jurisdiction in the juvenile proceeding should be terminated and custody of the juvenile awarded to a parent or other appropriate person pursuant to G.S. 50-13.1, 50-13.2, 50-13.5, and 50-13.7, as provided in this section, and terminate the court's jurisdiction in the juvenile proceeding. ~~50-13.7.~~

(b) When the court enters a custody order under this section, the court shall either cause the order to be filed in an existing civil action relating to the custody of the juvenile or, if there is no other civil action, instruct the clerk to treat the order as the initiation of a civil action for custody.

If the order is filed in an existing civil action and the person to whom the court is awarding custody is not a party to that action, the court shall order that the person be joined as a party and that the caption of the case be changed accordingly. The order shall resolve any pending claim for custody and shall constitute a modification of any custody order previously entered in the action.

If the court's order initiates a civil action, the court shall designate the parties to the action and determine the most appropriate caption for the case. The civil filing fee is waived unless the court orders one or more of the parties to pay the filing fee for a civil action into the office of the clerk of superior court. The order shall constitute a custody determination, and any motion to enforce or modify the custody order shall be filed in the newly created civil action in accordance with the provisions of Chapter 50 of the General Statutes. The Administrative Office of the Courts may adopt rules and shall develop and make available appropriate forms for establishing a civil file to implement this section.

(c) ~~The court may enter a civil custody order under this section and terminate the court's jurisdiction in the juvenile proceeding only if:~~ When entering an order under this section, the court shall satisfy the following:

- (1) ~~In the civil custody order the court makes~~ Make findings and conclusions that support the entry of a custody order in an action under Chapter 50 of the General Statutes or, if the juvenile is already the subject of a custody order entered pursuant to Chapter 50, makes findings and conclusions that support modification of that order pursuant to ~~G.S. 50-13.7; and~~ G.S. 50-13.7.
- (2) ~~In a separate order terminating the juvenile court's jurisdiction in the juvenile proceeding, the court finds:~~ Make the following findings:
  - a. ~~That there~~ There is not a need for continued State intervention on behalf of the juvenile through a juvenile court ~~proceeding;~~ and proceeding.
  - b. ~~That at~~ At least six months have passed since the court made a determination that the juvenile's placement with the person to whom the court is awarding custody is the permanent plan for the juvenile, though this finding is not required if the court is awarding custody to a parent or to a person with whom the child was living when the juvenile petition was filed."

**SECTION 30.** G.S. 7B-1000(a) reads as rewritten:

"(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and the court may modify or vacate the order in light of changes in circumstances or the needs of the juvenile. Notwithstanding the provision of this subsection, if a guardian of the person has been appointed for the juvenile and the court has also made findings ~~in accordance with G.S. 7B-907~~ that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b)."

**SECTION 31.** G.S. 7B-1001 reads as rewritten:

**"§ 7B-1001. Right to appeal.**

(a) In a juvenile matter under this Subchapter, appeal of a final order of the court in a juvenile matter shall be made directly to the Court of Appeals. Only the following juvenile matters may be appealed:

- (1) Any order finding absence of jurisdiction.
- (2) Any order, including the involuntary dismissal of a petition, which in effect determines the action and prevents a judgment from which appeal might be taken.
- (3) Any initial order of disposition and the adjudication order upon which it is based.
- (4) Any order, other than a nonsecure custody order, that changes legal custody of a juvenile.
- (5) An order entered under G.S. 7B-507(c) with rights to appeal properly ~~preserved as provided in that subsection,~~ preserved, as follows:
  - a. The Court of Appeals shall review the order to cease reunification together with an appeal of the termination of parental rights order if all of the following apply:
    1. A motion or petition to terminate the parent's rights is heard and granted.
    2. The order terminating parental rights is appealed in a proper and timely manner.
    3. The order to cease reunification is identified as an issue in the record on appeal of the termination of parental rights.



- b. A party who is a parent shall have the right to appeal the order if no termination of parental rights petition or motion is filed within 180 days of the order.
- c. A party who is a custodian or guardian shall have the right to immediately appeal the order.

(6) Any order that terminates parental rights or denies a petition or motion to terminate parental rights.

(b) Notice of appeal and notice to preserve the right to appeal shall be given in writing by a proper party as defined in G.S. 7B-1002 and shall be made within 30 days after entry and service of the order in accordance with G.S. 1A-1, Rule 58.

(c) Notice of appeal shall be signed by both the appealing party and counsel for the appealing party, ~~if any, and shall be taken only by following direct instruction of the appealing party after the conclusion of the proceeding.~~ In the case of an appeal by a juvenile, notice of appeal shall be signed by the guardian ad litem attorney advocate."

**SECTION 32.** G.S. 7B-1101.1 reads as rewritten:

**"§ 7B-1101.1. Parent's right to counsel; guardian ad litem.**

(a) The parent has the right to counsel, and to appointed counsel in cases of indigency, unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of Indigent Defense Services. When a petition is filed, unless the parent is already represented by counsel, the clerk shall appoint provisional counsel for each respondent parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons. At the first hearing after service upon the respondent parent, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent. The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient to show that the waiver is knowing and voluntary. This examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel under subsection (a) of this section, a guardian ad litem shall be appointed in accordance with G.S. 1A-1, Rule 17, to represent any parent who is under the age of 18 years and who is not married or otherwise emancipated.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, ~~Rule 17 if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest. The parent's counsel shall not be appointed to serve as the guardian ad litem.~~Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

(e) ~~Guardians ad litem appointed under this section may engage in all of the following practices:~~

- (1) ~~Helping the parent to enter consent orders, if appropriate.~~
- (2) ~~Facilitating service of process on the parent.~~
- (3) ~~Assuring that necessary pleadings are filed.~~
- (4) ~~Assisting the parent and the parent's counsel, if requested by the parent's counsel, to ensure that the parent's procedural due process requirements are met.~~

(f) The fees of a guardian ad litem appointed pursuant to this section shall be borne by the Office of Indigent Defense Services when the court finds that the respondent is indigent. In other cases, the fees of the court-appointed guardian ad litem shall be a proper charge against the respondent if the respondent does not secure private legal counsel."

**SECTION 33.** G.S. 7B-1106 is amended by adding the following new subsection to read:

"(a2) If an attorney has been appointed for a respondent pursuant to G.S. 7B-602 and has not been relieved of responsibility, a copy of all pleadings and other papers required to be served on the respondent shall be served on the respondent's attorney pursuant to procedures established under G.S. 1A-1, Rule 5."

**SECTION 34.** G.S. 7B-1109(b) reads as rewritten:

"(b) The court shall inquire whether the juvenile's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, counsel shall be appointed to represent them in accordance with rules adopted by the Office of Indigent Defense Services. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination petition or motion. ~~In the event that the parents do not desire counsel and are present at the hearing, the court shall examine each parent and make findings of fact sufficient to show that the waivers were knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198.~~"

**SECTION 35.** G.S. 7B-1111(a)(5) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

- ...
- (5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental ~~rights~~rights, done any of the following:
- a. ~~Established paternity judicially or by affidavit which has been filed~~Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services; provided, the ~~court~~petitioner or movant shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and ~~shall incorporate into the case record the Department's certified reply; or~~reply shall be submitted to and considered by the court.
  - b. Legitimated the juvenile pursuant to provisions of ~~G.S. 49-10~~G.S. 49-10, G.S. 49-12.1, or filed a petition for this specific ~~purpose; or~~purpose.
  - c. Legitimated the juvenile by marriage to the mother of the ~~juvenile;~~juvenile.
  - d. Provided substantial financial support or consistent care with respect to the juvenile and mother.
  - e. Established paternity through G.S. 49-14, 110-132, 130A-101, 130A-118, or other judicial proceeding.

.....  
**SECTION 36.** G.S. 7B-1112.1 reads as rewritten:

**"§ 7B-1112.1. Selection of adoptive parents.**

The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. In selecting the adoptive parents, any current placement provider wanting to adopt the child shall be considered. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection process. If the guardian ad litem requests information about the selection process, the county shall provide the information within five business days. The county department of social services shall notify the guardian ad litem and the foster parents of the selection of prospective adoptive parents within 10 days of the selection and before the filing of the adoption petition. If the guardian ad litem disagrees with the selection of adoptive ~~parents,~~parents or the foster parents want to adopt the juvenile and were not selected as adoptive parents, the guardian ad litem or foster parents shall file a motion within 10 days of the department's notification and schedule the case for hearing on the next juvenile calendar. The department shall not change the juvenile's placement to the prospective adoptive parents unless the time period for filing a motion has expired and no motion has been filed. The Department shall provide a copy of a motion for judicial review of

adoption selection to the foster parents not selected. Nothing in this section shall be construed to make the foster parents a party to the proceeding solely based on receiving notification and the right to be heard by filing a motion. In hearing ~~the any~~ motion, the court shall consider the recommendations of the agency and the guardian ad litem and other facts related to the selection of adoptive parents. The court shall then determine whether the proposed adoptive placement is in the juvenile's best interests."

**SECTION 37.** G.S. 7B-1114 reads as rewritten:

**"§ 7B-1114. Reinstatement of parental rights.**

(a) A juvenile whose parent's rights have been ~~terminated pursuant to this Article, terminated,~~ the guardian ad litem attorney, or a county department of social services with custody of the juvenile may file a motion to reinstate the parent's rights if all of the following conditions are satisfied:

- (1) The juvenile is at least 12 years of age or, if the juvenile is younger than 12, the motion alleges extraordinary circumstances requiring consideration of the motion.
- (2) The juvenile does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time.
- (3) The order terminating parental rights was entered at least three years before the filing of the motion, unless the court has found or the juvenile's attorney advocate and the county department of social services with custody of the juvenile stipulate that the juvenile's permanent plan is no longer adoption.

...  
(i) At any hearing under this section, after making proper findings of fact and conclusions of law, the court may do one of the following:

- (1) Enter an order for visitation in accordance with ~~G.S. 7B-905(c)~~G.S. 7B-905.1.
- (2) Order that the juvenile be placed in the former parent's home and supervised by the department of social services either directly or, when the former parent lives in a different county, through coordination with the county department of social services in that county, or by other personnel as may be available to the court, subject to conditions applicable to the former parent as the court may specify. Any order authorizing placement with the former parent shall specify that the juvenile's placement and care remain the responsibility of the county department of social services with custody of the juvenile and that the department is to provide or arrange for the placement of the juvenile.

...."

**SECTION 38.** G.S. 7B-1203(2) reads as rewritten:

**"§ 7B-1203. Alternative plans.**

A district court district shall be granted a waiver from the implementation of a local program if the Administrative Office of the Courts determines that the following conditions are met:

- (2) The proposed alternative plan will require no greater proportion of State funds than the district court district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as the juvenile population, number of substantiated abuse and neglect reports, number of abuse and neglect petitions, number of abused and neglected juveniles in care to be reviewed pursuant to ~~G.S. 7B-906~~G.S. 7B-906.1, nature of the district's district court caseload, and number of petitions to terminate parental rights."

**SECTION 39.** G.S. 7B-2503(1)c. reads as rewritten:

**"§ 7B-2503. Dispositional alternatives for undisciplined juveniles.**

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

...

c.

If the director of the department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with ~~G.S. 7B-906~~G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

**SECTION 40.** G.S. 7B-2506(1)c. reads as rewritten:

**"§ 7B-2506. Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

...

c.

If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with ~~G.S. 7B-906~~G.S. 7B-906.1. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may,

unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

**SECTION 41.** This act becomes effective October 1, 2013, and applies to actions filed or pending on or after that date.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of June, 2013.

s/ Daniel J. Forest  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

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Pat McCrory  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2013