

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 399

Short Title: Amend Laws Pertaining to DHHS.-AB (Public)

Sponsors: Representatives Burr, Hollo, and Avila (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health and Human Services, if favorable, Judiciary Subcommittee C, if favorable, Appropriations.

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES REQUESTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY; MEDICAID; AND PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND DEPENDENCY

SECTION 1. G.S. 7B-507 reads as rewritten:

"§ 7B-507. Reasonable efforts.

(a) An order placing or continuing the placement of a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order:

- (1) Shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's best interest;
- (2) Shall contain specific findings as to whether a county department of social services has either made reasonable efforts to prevent the need for placement or eliminate-eliminated the need for placement of the juvenile, unless the court has previously determined under subsection (b) of this section that such efforts are not required or shall cease;
- (3) Shall contain findings as to whether a county department of social services should continue to make reasonable efforts to prevent or eliminate the need for placement of the juvenile, unless the court has previously determined or determines under subsection (b) of this section that such efforts are not required or shall cease;
- (4) Shall specify that the juvenile's placement and care are the responsibility of the county department of social services and that the department is to provide or arrange for the foster care or other placement of the juvenile. After considering the department's recommendations, the court may order a specific placement the court finds to be in the juvenile's best interest; and
- (5) May provide for services or other efforts aimed at returning the juvenile to a safe home or at achieving another permanent plan for the juvenile.

A finding that reasonable efforts have not been made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court



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1 finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the
2 need for the juvenile's placement were precluded by an immediate threat of harm to the
3 juvenile, the court may find that the placement of the juvenile in the absence of such efforts
4 was reasonable.

5 (b) In any order placing a juvenile in the custody or placement responsibility of a
6 county department of social services, whether an order for continued nonsecure custody, a
7 dispositional order, or a review order, the court may direct that reasonable efforts to eliminate
8 the need for placement of the juvenile shall not be required or shall cease if the court makes
9 written findings of fact that:

- 10 (1) Such efforts clearly would be futile or would be inconsistent with the
11 juvenile's health, safety, and need for a safe, permanent home within a
12 reasonable period of time;
- 13 (2) A court of competent jurisdiction has determined that the parent has
14 subjected the child to aggravated circumstances as defined in G.S. 7B-101;
- 15 (3) A court of competent jurisdiction has terminated involuntarily the parental
16 rights of the parent to another child of the parent; or
- 17 (4) A court of competent jurisdiction has determined that: the parent has
18 committed murder or voluntary manslaughter of another child of the parent;
19 has aided, abetted, attempted, conspired, or solicited to commit murder or
20 voluntary manslaughter of the child or another child of the parent; ~~or~~ has
21 committed a felony assault resulting in serious bodily injury to the child or
22 another child of the ~~parent~~ parent; has committed sexual abuse against the
23 child or another child of the parent; or has been required to register as a sex
24 offender on any government-administered registry.

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

39 (d) In determining reasonable efforts to be made with respect to a juvenile and in
40 making such reasonable efforts, the juvenile's health and safety shall be the paramount concern.
41 Reasonable efforts to preserve or reunify families may be made concurrently with efforts to
42 plan for the juvenile's adoption, to place the juvenile with a legal guardian, or to place the
43 juvenile in another permanent arrangement."

44 **SECTION 2.** G.S. 7B-909 reads as rewritten:

45 **"§ 7B-909. Review of agency's plan for placement.**

46 (a) The director of social services or the director of the licensed private child-placing
47 agency shall promptly notify the clerk to calendar the case for review of the department's or
48 agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile ~~matters~~
49 ~~in any case where:~~ matters. The review shall be held within six months of accepting a
50 relinquishment of a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter
51 48 of the General Statutes unless the juvenile has become the subject of a decree of adoption.

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

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

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

11 (c) Notification of the court under this section shall be by a petition for review. ~~The~~
12 ~~petition shall set forth the circumstances necessitating the review under subsection (a) of this~~
13 ~~section.~~ The review shall be conducted within 30 days following the filing of the petition for
14 review unless the court shall otherwise direct. The court shall conduct reviews every six
15 months until the juvenile is the subject of a decree of adoption. The initial review and all
16 subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental
17 rights have been terminated shall not be considered a party to the review unless an appeal of the
18 order terminating parental rights is pending, and a court has stayed the order pending the
19 appeal."
20

21 **PART II. CHANGES TO LAWS PERTAINING TO MEDICAID**

22 **SECTION 3.** G.S. 108A-70.5(b)(2) reads as rewritten:

23 "(2) Estate. – All the real and personal property considered assets of the estate
24 available for the discharge of debt pursuant to G.S. 28A-15-1. For the
25 purpose of recovery under this statute and for individuals who have received
26 benefits under a qualified long-term care partnership policy as described in
27 G.S. 108A-70.4, "estate" also includes any other real and personal property
28 and other assets in which the individual had any legal title or interest at the
29 time of death (to the extent of such interest), including assets conveyed to a
30 survivor, heir, or assign of the deceased individual through joint tenancy,
31 tenancy in common, survivorship, life estate, living trust, or other
32 arrangement."

33 **SECTION 4.** Article 2 of Chapter 28A of the General Statutes is amended by
34 adding a new section to read as follows:

35 **"§ 28A-2A-24. Medicaid beneficiaries.**

36 Before any probate estate may be closed pursuant to G.S. 108A-70.5, with respect to a
37 decedent who at the time of death was enrolled in the State's Medicaid program, the personal
38 representative of the estate shall file with the clerk of the court exercising probate jurisdiction a
39 release from the Division of Medical Assistance. The release from the Division shall include
40 one of the following:

41 (1) Evidence of the payment of all medical assistance benefits, premiums, or
42 other such costs due from the estate under law.

43 (2) A waiver of the State's Medicaid-related claims.

44 (3) A statement from the Division that no amount is due."

45 **SECTION 5.** Article 8A of Chapter 36C of the General Statutes is amended by
46 adding a new section to read as follows:

47 **"§ 36C-8-118. Notice of deceased Medicaid beneficiaries.**

48 Any trustee who has a duty or power to pay debts of a deceased trust beneficiary shall give
49 notice to the Department of Health and Human Services, Division of Medical Assistance, if the
50 deceased trust beneficiary received any medical assistance from the State's Medicaid program.
51 Such notice shall be provided within 90 days of the death of the trust beneficiary. The Division

1 of Medical Assistance may make a claim against any trust deemed an available resource under
2 applicable law."

3 **SECTION 6.** G.S. 108C-3 reads as rewritten:

4 "**§ 108C-3. Medicaid and Health Choice provider screening.**

5 ...

6 (c) Limited Categorical Risk Provider Types. – The following provider types are hereby
7 designated as "limited" categorical risk:

8 ...

9 (15) Hearing aid dealers.

10 (16) Portable X-ray suppliers.

11 (17) Religious nonmedical health care institutions.

12 (18) Registered dieticians.

13 (19) Clearinghouses, billing agents, and alternate payees.

14 ...

15 (e) Moderate Categorical Risk Provider Types. – The following provider types are
16 hereby designated as "moderate" categorical risk:

17 ...

18 (13) Revalidating agencies providing private duty nursing, home health, personal
19 care services or in-home care services, or home infusion.

20 (14) Local health departments.

21 (15) Nonemergency medical transportation.

22"

24 **PART III. CHANGES TO LAWS PERTAINING TO PUBLIC HEALTH**

25 **SECTION 7.** G.S. 130A-22(b3) reads as rewritten:

26 "(b3) The Secretary may impose an administrative penalty on a person who violates
27 Article 19A or 19B of this Chapter or any rules adopted pursuant to Article 19A or 19B of this
28 Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed
29 ~~one five thousand dollars (\$1,000)~~ (\$5,000) for each day the violation continues for Article 19A
30 of this Chapter. The penalty shall not exceed ~~seven hundred fifty five thousand~~ dollars
31 ~~(\$750.00)~~ (\$5,000) for each day the violation continues for Article 19B of this Chapter. The
32 penalty authorized by this section does not apply to a person who is not required to be certified
33 under Article 19A or 19B."

34 **SECTION 8.** G.S. 130A-101(a) reads as rewritten:

35 "(a) A certificate of birth for each live birth, regardless of the gestation period, which
36 occurs in this State shall be filed with the local registrar of the county in which the birth occurs
37 within ~~10~~ five days after the birth and shall be registered by the registrar if it has been
38 completed and filed in accordance with this Article and the rules."

39 **SECTION 9.** G.S. 130A-209(a) reads as rewritten:

40 "**§ 130A-209. Incidence reporting of cancer; charge for collection if failure to report.**

41 (a) ~~All~~ By no later than October 1, 2014, all health care facilities and health care
42 providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors
43 shall submit by electronic transmission a report to the central cancer registry each diagnosis of
44 cancer or benign brain or central nervous system tumors in any person who is screened,
45 diagnosed, or treated by the facility or provider. The electronic transmission of these reports
46 shall be in a format prescribed by the United States Department of Health and Human Services,
47 Centers for Disease Control and Prevention, National Program of Cancer Registries. The
48 reports shall be made within six months ~~of~~ after diagnosis. Diagnostic, demographic and other
49 information as prescribed by the rules of the Commission shall be included in the report."

51 **PART IV. EFFECTIVE DATE**

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SECTION 10. This act becomes effective October 1, 2013.