

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 935
Committee Substitute Favorable 7/11/19
PROPOSED COMMITTEE SUBSTITUTE H935-CSSHa-24 [v.10]
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Short Title: Social Services Reform.

(Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED
AN ACT TO IMPLEMENT VARIOUS PROVISIONS RELATED TO SOCIAL SERVICES
REFORM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) In accordance with the plan submitted by the Social Services Regional Supervision and Collaboration Working Group (SSWG) in its report to the Joint Legislative Oversight Committee on Health and Human Services as required by S.L. 2017-41 (Rylan's Law), the Department of Health and Human Services (Department) shall establish seven regions for regional supervision of child welfare and social services and begin providing oversight and support within those regions through home-based staff and the central office team by March 1, 2020. To that end, the Department shall move forward, pursuant to existing authority, with repurposing and redeploying (i) positions identified in the report to support regionalization and (ii) all managerial staff needed to support regionalization in the central office. The Department shall pursue procurement of physical offices within each of the seven regions beginning in March 2021, and shall prioritize staffing to improve the child welfare system. The Department shall move towards full implementation of a regional model, with offices, by March 1, 2022.

SECTION 1.(b) There is appropriated from the General Fund to the Department of Health and Human Services, Division of Social Services, the sum of nine hundred fourteen thousand seven hundred ninety dollars (\$914,790) recurring for each year of the 2019-2021 fiscal biennium to support 11 new staff positions to improve regional supervision and support of child welfare services pursuant to the plan as described under subsection (a) of this section.

SECTION 1.(c) If any provision of this section and G.S. 143C-5-4 are in conflict, the provisions of this section shall prevail.

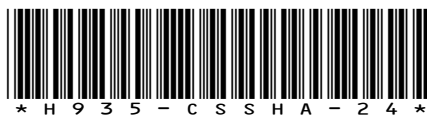
SECTION 1.(d) The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until the Current Operations Appropriations Act for the applicable fiscal year becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations Appropriations Act for that fiscal year becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1 of the fiscal year.

SECTION 1.(e) This section becomes effective July 1, 2019.

SECTION 2.(a) Chapter 108A of the General Statutes is amended by adding a new Article to read:

"Article 8.

"Miscellaneous.



* H 9 3 5 - C S S H A - 2 4 *

"§ 108A-133. Criminal history record checks required for child care institutions.

(a) Application. – This section applies to a child care institution as defined by Title IV-E of the Social Security Act. The requirement for a criminal history record check applies to all applicants for employment and all individuals wishing to volunteer in a child care institution.

(b) Requirement. – An offer of employment by a child care institution, or by a contract agency of a child care institution, is conditioned on consent to a State and national criminal history record check of the applicant. Acceptance of an individual who wishes to volunteer in a child care institution is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. A child care institution shall not employ an applicant, or allow an individual to volunteer, who refuses to consent to a criminal history record check required by this section.

(c) Process. – Within five business days of making the conditional offer of employment, or formally discussing a volunteer opportunity, a child care institution, or a contract agency of a child care institution, shall submit a request to the Department of Public Safety under G.S. 143B-968 to conduct a State and national criminal history record check as required by this section, the Department of Public Safety shall return the results of national criminal history record check to the Department of Health and Human Services, Criminal Records Check Unit.

(d) Factors. – If an applicant's or individual's criminal history record check reveals one or more convictions of a relevant offense listed under subdivision (e) of this section, the conviction shall not automatically bar employment. The Department of Health and Human Services, Criminal Records Check Unit, shall consider all of the following factors in determining whether to recommend the applicant be hired, or the individual be allowed to volunteer:

(1) The level and seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the conviction.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.

(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.

(7) The subsequent commission by the person of a relevant offense.

Once the Department of Health and Human Services, Criminal Records Check Unit, considers the relevant offense listed in subdivision (e) of this section, and the factors listed in this subdivision, the Department of Health and Human Services, Criminal Records Check Unit, shall inform the child care institution, or a contract agency of a child care institution, whether an applicant should be hired, or an individual should be allowed to volunteer. The Department shall not provide the results of the criminal history record check to the child care institution or a contract agency of a child care institution.

(e) Relevant Offense. – As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article

20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) Penalty for Furnishing False Information. – Any applicant for employment, or individual who wishes to volunteer, who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) Conditional Employment. – A child care institution may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The child care institution shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 143B-968.

(2) The child care institution shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(h) Notification of Results. – Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the child care institution as to whether the information received may affect the employability of the applicant or ability of the individual to volunteer. In no case shall the results of the national criminal history record check be shared with the child care institution or the contract agency of a child care institution. Child care institutions shall make available upon request verification that a criminal history check has been completed on all staff and volunteers. All criminal history information is confidential and may not be disclosed.

(i) Immunity. – The Department of Health and Human Services, Criminal Records Check Unit; a child care institution; a contract agency of a child care institution; and an officer or employee any of these entities acting in good faith and in compliance with this section shall be immune from civil liability for denying employment to an applicant, or the opportunity for an individual to volunteer, based on information provided in the criminal history record check. A child care institution, or contract agency for a child care institution and officers and employees shall be immune from civil liability for failure to check an applicant's, employee's, or volunteer's history of criminal offenses if the applicant's, employee's, or volunteer's criminal history record check is requested and received in compliance with this section."

SECTION 2.(b) G.S. 131D-10.6(7) reads as rewritten:

"§ 131D-10.6. Powers and duties of the Department.

In addition to other powers and duties prescribed by law, the Department shall exercise the following powers and duties:

...

(7) Grant, deny, suspend or revoke a license or a provisional license, in accordance with this Article, G.S. 108A-133, and Commission rules."

SECTION 2.(c) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-968. National criminal record checks for child care institutions.

1 The Department of Public Safety shall provide to the Department of Health and Human
2 Services, Criminal Records Check Unit, in accordance with G.S. 108A-133, the criminal history
3 of any current or prospective employee or volunteer in a child care institution as defined by Title
4 IV-E of the Social Security Act, including individuals working with a contract agency in a child
5 care institution. The Department of Health and Human Services, Criminal Records Check Unit,
6 shall provide to the Department of Public Safety, along with the request, the fingerprints of the
7 individual to be checked, any additional information required by the Department of Public Safety,
8 and a form signed by the individual to be checked consenting to the check of the criminal record
9 and to the use of fingerprints and other identifying information required by the State or National
10 Repositories of Criminal Histories. The fingerprints of the individual shall be forwarded to the
11 State Bureau of Investigation for a search of the State's criminal history record file, and the State
12 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
13 for a national criminal history record check. All information received by the Department of
14 Health and Human Services, Criminal Records Check Unit, shall be kept confidential in
15 accordance with G.S. 108A-133. The Department of Public Safety may charge a reasonable fee
16 to conduct a criminal record check under this section."

17 **SECTION 2.(d)** This section becomes effective on December 1, 2020, and applies to
18 all employees, volunteers, and applicants on and after that date.

19 **SECTION 3.** Section 11C.5(a) of S.L. 2017-57 reads as rewritten:

20 **"SECTION 11C.5.(a)** Funds appropriated from the General Fund to the Department of
21 Health and Human Services for the child welfare postsecondary support program shall be used
22 to continue providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C.
23 § 108711 for the educational needs of (i) foster youth aging out of the foster care ~~system~~ system,
24 (ii) youth who exit foster care to a permanent home through the Guardianship Assistance
25 Program, and (iii) special needs children adopted from foster care after age 12. These funds shall
26 be allocated by the State Education Assistance Authority."

27 **SECTION 4.(a)** G.S. 108A-9 is amended by adding a new subdivision to read:
28 **"§ 108A-9. Duties and responsibilities.**

29 The county board of social services shall have the following duties and responsibilities:

30 ...

31 (4a) To attend education and training sessions provided for new board members
32 during the first year they serve on the board.

33 "

34 **SECTION 4.(b)** The Department of Health and Human Services, Division of Social
35 Services, shall collaborate with key stakeholders, including the North Carolina Association of
36 County Boards of Social Services, Association of North Carolina County Social Services
37 Directors, North Carolina Association of County Commissioners, and the University of North
38 Carolina School of Government, to create formal education and training sessions for new county
39 boards of social services members in accordance with G.S. 108A-9(4a), as provided in subsection
40 (a) of this section. The education and training sessions shall include a segment on the potential
41 liabilities of the county board of social services. The education and training sessions shall be
42 available Statewide by March 1, 2020.

43 **SECTION 4.(c)** Section 4(b) is effective when it becomes law. Section 4(a) is
44 effective October 1, 2020, and by October 1, 2022, all current county board of social services
45 members must have participated in the education and training sessions provided in
46 G.S. 108A-9(4a).

47 **SECTION 5.** The Administrative Office of the Courts shall conduct a feasibility and
48 cost study of a proposed child support tribunal, with dedicated court officers to hear child support
49 matters, using quasi-judicial procedures. The study shall include, at a minimum, strategies to
50 address funding, staffing, and a plan for how the proposed changes will be implemented. The

Administrative Office of the Courts shall submit a report of its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services by March 1, 2020.

SECTION 6.(a) Part 2B of Article 1 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-15.16. Conflicts of interest.

When conflicts of interest arise in the provision of social services provided by county departments of social services, county departments of social services shall work expeditiously to resolve those conflicts consistent with applicable law and any policies and procedures established by the Department of Health and Human Services. Policies and procedures shall address county financial and practice responsibilities associated with conflicts of interest. Upon identifying a conflict of interest, the county shall notify the appropriate authority within the Department of Health and Human Services of the conflict. The Department of Health and Human Services shall have authority to make final decisions regarding conflicts of interest assignments when disputes arise, with regional staff having initial authority when a dispute arises between county departments of social services, and central office staff having initial authority when disputes arise between regions. The Social Services Commission shall adopt rules regarding conflicts of interest management, including establishing reasonable and specific time lines for resolving conflicts of interest. For purposes of this section, a "conflict of interest" occurs when a county department of social services is not able to manage the adverse interests of two individuals that the department of social services owes a duty to serve, or because of a preexisting relationship between an individual and a county that results in a county department of social services inability to objectively fulfill its statutory responsibilities, or when the provision of social services and duty owed by a county department of social services conflicts with services and the duty owed by another county department of social services."

SECTION 6.(b) The Social Services Commission shall report to the Joint Legislative Oversight Committee on Health and Human Services upon adopting rules pursuant to G.S. 108A-15.16, as enacted in subsection (a) of this section.

SECTION 7.(a) Part I of S.L. 2017-41 reads as rewritten:

"SECTION 1.1. Regional Supervision of and Collaboration by Local Social Services Programs. -

...

- (3) The Department shall submit the plan to the Joint Legislative Oversight Committee on Health and Human Services by November 15, 2018. The plan shall provide for the system of regional supervision to be operational no later than March 1, 2020-2022. The Department shall not implement the plan without an act by the General Assembly.

"SECTION 1.2.(a) Social Services Regional Supervision and Collaboration Working Group. – The School of Government at the University of North Carolina at Chapel Hill (SOG) shall ~~convene a~~ continue the work of the Social Services Regional Supervision and Collaboration Working Group (Working Group) to make recommendations to the Department regarding the regional supervision and collaboration plan. The Working Group shall consist of the currently constituted members as of December 1, 2018.

"SECTION 1.2.(b) Composition. – The Working Group shall consist of the following members:

- (1) Three members ~~of the Senate~~ appointed by the President Pro Tempore of the Senate, one of whom shall be designated as a cochair.
- (2) Three members ~~of the House of Representatives~~ appointed by the Speaker of the House of Representatives, one of whom shall be designated as a cochair.

...

"SECTION 1.2.(b1) Vacancy. – A vacancy on the Working Group created by death, resignation, or otherwise, shall be filled in the same manner as the original appointment.

...

"SECTION 1.2.(d) Duties. – The Working Group shall continue to develop recommendations for the regional supervision and collaboration plan required by Section 1.1 of this act. The Working Group shall ~~divide its work into two stages, the first~~ continue to (i) address regional supervision and ~~the second to~~ (ii) address interagency collaboration and regionalization.

(1) Stage One. – The Working Group shall convene ~~its first meeting no later than October 6, 2017. During the first stage, the Working Group shall develop~~ October 4, 2019, and continue developing recommendations regarding:

- a. The size, number, and location of the regions. Recommendations shall take into consideration (i) the need for regions to maintain direct, local connections with the jurisdictions they serve; (ii) alignment with other regional organizations that intersect with the work of social services, as appropriate; and (iii) awareness of the cultural differences and similarities between regions.
- b. The allocation of responsibility between the central, regional, and local officials in supervising and administering the social services programs and services.
- c. Methods for holding the regional offices accountable for performance and responsiveness.
- d. Requirements for the regional offices to share information about local departmental performance with the relevant board or boards of county commissioners, county or regional board of social services, or consolidated human services board.
- e. Options for authorizing the board of county commissioners to intervene in urgent situations to assume direct control of the department of social services at the local level prior to the State assuming control of service delivery pursuant to G.S. 108A-74.
- f. Any other issues related to regional supervision identified by the cochairs.

(2) Stage Two. – ~~During the second stage, the~~ The Working Group shall:

- a. Develop recommendations regarding legislative and regulatory changes necessary to improve collaboration between counties in the administration of social services programs and services. Recommendations shall address, at a minimum, information sharing, conflicts of interest, and intercounty movement of people enrolled in programs or receiving social services.
- b. Develop a vision for transitioning the State from a county-administered system to a regionally administered system. The vision shall identify general benefits and challenges associated with making such a transition.

(3) Stage Three. – After completing the work in Stages One and Two, the Working Group shall:

- a. Review the recommendations from the Center for the Support of Families and the Department. After reviewing both reports, the Working Group shall revise the Stage One recommendations regarding regional supervision.
- b. Provide more detailed recommendations regarding the following:
 1. The role of local elected officials and social services governing boards in social services oversight.
 2. Legal representation of local social services agencies.
 3. Managing conflicts of interest.

4. Determining residency for social services programs and services.
 5. Transferring and changing venue in adult guardianship cases.
 6. Notice requirements for adult guardianship cases.
 7. Confidentiality of social services records, as it relates to improving interagency collaboration and service delivery.
- c. Conduct a study regarding appointments of and funding for publicly funded guardians. The study must include all of the following:
1. A description of the current types of appointments of publicly funded guardians.
 2. An evaluation of the effectiveness of the various types of publicly funded guardians.
 3. Recommendations for management of publicly funded guardians.

"SECTION 1.2.(e) Reports. –

- (1) Stage One. – The Working Group shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services (Committee) and the Department at the conclusion of Stage One, which shall be no later than April 15, 2018. After receiving the Stage One report, the Committee may terminate the Working Group if it concludes that the Working Group is not making sufficient progress.
- (2) Stage Two. – The Working Group shall submit a report to the Committee and the Department at the conclusion of Stage Two, which shall be no later than February 1, 2019.
- (3) Stage Three. – The Working Group shall submit a preliminary report to the Committee no later than October 15, 2020, providing an update on its continued work. After receiving the preliminary report, the Committee may terminate the Working Group if it concludes the Working Group is not making sufficient progress. The Working Group shall submit a final report of its recommendations to the Committee no later than February 1, 2021, and shall terminate upon the final report."

SECTION 7. (b) If House Bill 291, 2019 Regular Session, becomes law, then Section 1 of that act amending Part I of S.L. 2017-41, is repealed.

SECTION 8. The Department of Health and Human Services shall conduct a feasibility study and make recommendations on transferring adult guardianship cases from the Department to counties. Findings and recommendations from the feasibility study, including what support counties may need, including monetary support, for assuming this task, shall be made to the Joint Legislative Oversight Committee on Health and Human Services by March 1, 2020.

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.