

## Chapter 7B.

### Juvenile Code.

#### SUBCHAPTER I. ABUSE, NEGLECT, DEPENDENCY.

##### Article 1.

##### Purposes; Definitions.

#### § 7B-100. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents;
- (2) To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the juvenile, and the strengths and weaknesses of the family.
- (3) To provide for services for the protection of juveniles by means that respect both the right to family autonomy and the juveniles' needs for safety, continuity, and permanence; and
- (4) To provide standards for the removal, when necessary, of juveniles from their homes and for the return of juveniles to their homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their parents.
- (5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-140, s. 5.)

#### § 7B-101. Definitions.

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

- (1) Abused juveniles. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker:
  - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
  - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
  - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
  - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree forcible rape, as provided in G.S. 14-27.21; second-degree forcible rape as provided in G.S. 14-27.22; statutory rape of a child by an adult as provided in

- G.S. 14-27.23; first-degree statutory rape as provided in G.S. 14-27.24; first-degree forcible sex offense as provided in G.S. 14-27.26; second-degree forcible sex offense as provided in G.S. 14-27.27; statutory sexual offense with a child by an adult as provided in G.S. 14-27.28; first-degree statutory sexual offense as provided in G.S. 14-27.29; sexual activity by a substitute parent or custodian as provided in G.S. 14-27.31; sexual activity with a student as provided in G.S. 14-27.32; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-205.3(b); and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others;
  - f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile; or
  - g. Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child.
- (2) Repealed by Session Laws 2015-136, s. 1, effective October 1, 2015, and applicable to actions filed or pending on or after that date.
  - (3) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent; foster parent; an adult member of the juvenile's household; an adult entrusted with the juvenile's care; a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department; any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility; or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only.
  - (4) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.

- (5) Repealed by Session Laws 2013-129, s. 1, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (6) Court. – The district court division of the General Court of Justice.
- (7) Court of competent jurisdiction. – A court having the power and authority of law to act at the time of acting over the subject matter of the cause.
- (7a) Criminal history. – A local, State, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, involving violence against a person.
- (8) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (8a) Department. – Each county's child welfare agency. Unless the context clearly implies otherwise, when used in this Subchapter, "department" or "department of social services" shall refer to the county agency providing child welfare services, regardless of the name of the agency or whether the county has consolidated human services, pursuant to G.S. 153A-77 and shall include a regional social services department created pursuant to Part 2B of Article 1 of Chapter 108A of the General Statutes.
- (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 (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.
- (10) Director. – The director of the department of social services in the county in which the juvenile resides or is found, or the director's representative as authorized in G.S. 108A-14.
- (11) District. – Any district court district as established by G.S. 7A-133.
- (11a) Family assessment response. – A response to selected reports of child neglect and dependency as determined by the Director using a family-centered approach that is protection and prevention oriented and that evaluates the strengths and needs of the juvenile's family, as well as the condition of the juvenile.
- (11b) Investigative assessment response. – A response to reports of child abuse and selected reports of child neglect and dependency as determined by the Director using a formal information gathering process to determine whether a juvenile is abused, neglected, or dependent.
- (12) Judge. – Any district court judge.
- (13) Judicial district. – Any district court district as established by G.S. 7A-133.
- (14) Juvenile. – A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States.
- (15) Neglected juvenile. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker does any of the following:
  - a. Does not provide proper care, supervision, or discipline.
  - b. Has abandoned the juvenile, except where that juvenile is a safely surrendered infant as defined in this Subchapter.

- c. Has not provided or arranged for the provision of necessary medical or remedial care.
  - d. Or whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter.
  - e. Creates or allows to be created a living environment that is injurious to the juvenile's welfare.
  - f. Has participated or attempted to participate in the unlawful transfer of custody of the juvenile under G.S. 14-321.2.
  - g. Has placed the juvenile for care or adoption in violation of law.
- In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.
- (15a) Nonrelative kin. – 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.
  - (15b) Non-surrendering parent. – A parent of a safely surrendered infant other than the parent who physically surrenders the parent's infant pursuant to Article 5A of this Subchapter.
  - (16) Petitioner. – The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.
  - (17) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
  - (18) Reasonable efforts. – The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts means the diligent and timely use of permanency planning services by a department of social services to develop and implement a permanent plan for the juvenile.
  - (18a) Relative. – An individual directly related to the juvenile by blood, marriage, or adoption, including, but not limited to, a grandparent, sibling, aunt, or uncle.
  - (18b) Responsible individual. – A parent, guardian, custodian, caretaker, or individual responsible for subjecting a juvenile to human trafficking under G.S. 14-43.11, 14-43.12, or 14-43.13, who abuses or seriously neglects a juvenile.
  - (18c) 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.
  - (19) Safe home. – A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect.
  - (19a) Safely surrendered infant. – An infant reasonably believed to be not more than 30 days of age and without signs of abuse or neglect who is voluntarily

delivered to an individual in accordance with Article 5A of this Subchapter by the infant's parent who does not express an intent to return for the infant. In determining whether there are signs of neglect, the act of surrendering the infant, in and of itself, does not constitute neglect.

- (19b) Serious neglect. – Conduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse.
- (20) Repealed by Session Laws 2013-129, s. 1, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (21) Substantial evidence. – Relevant evidence a reasonable mind would accept as adequate to support a conclusion.
- (21a) Surrendering parent. – A parent who physically surrenders the parent's infant pursuant to Article 5A of this Subchapter.
- (22) Working day. – Any day other than a Saturday, Sunday, or a legal holiday when the courthouse is closed for transactions.

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified. (1979, c. 815, s. 1; 1981, c. 336; c. 359, s. 2; c. 469, ss. 1-3; c. 716, s. 1; 1985, c. 648; c. 757, s. 156(q); 1985 (Reg. Sess., 1986), c. 852, s. 16; 1987, c. 162; c. 695; 1987 (Reg. Sess., 1988), c. 1037, ss. 36, 37; 1989 (Reg. Sess., 1990), c. 815, s. 1; 1991, c. 258, s. 3; c. 273, s. 11; 1991 (Reg. Sess., 1992), c. 1030, s. 3; 1993, c. 324, s. 1; c. 516, ss. 1-3; 1997-113, s. 1; 1997-390, s. 3; 1997-390, s. 3.2; 1997-443, s. 11A.118(a); 1997-506, s. 30; 1998-202, s. 6; 1998-229, ss. 1, 18; 1999-190, s. 1; 1999-318, s. 1; 1999-456, s. 60; 2005-55, s. 1; 2005-399, s. 1; 2009-38, s. 1; 2010-90, ss. 1, 2; 2011-183, s. 2; 2012-153, s. 2; 2013-129, s. 1; 2013-368, s. 16; 2015-123, s. 1; 2015-136, s. 1; 2015-181, s. 21; 2016-94, s. 12C.1(d); 2016-115, s. 3; 2017-41, s. 4.3; 2018-68, s. 8.1(a), (b); 2018-75, s. 5(a); 2018-145, s. 11(d); 2019-33, s. 1; 2019-245, s. 6(a); 2021-100, s. 1(a); 2021-123, s. 5(a); 2021-132, s. 1(a); 2023-14, s. 6.2(b).)

## Article 2.

### Jurisdiction.

#### § 7B-200. Jurisdiction.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered.

- (3) Proceedings to determine whether a juvenile should be emancipated.
- (4) Proceedings to terminate parental rights.
- (4a) Proceedings for reinstatement of parental rights.
- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services.
- (5a) Proceedings to review the placement of a young adult in foster care pursuant to G.S. 108A-48 and G.S. 7B-910.1.
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7B-302.
- (7) Proceedings involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes.
- (8) Proceedings by an underage party seeking judicial authorization to marry under Article 1 of Chapter 51 of the General Statutes.
- (9) Petitions for judicial review of a director's determination under Article 3A of this Chapter.

(b) The court shall have jurisdiction over the parent, guardian, custodian, or caretaker of a juvenile who has been adjudicated abused, neglected, or dependent, provided the parent, guardian, custodian, or caretaker has (i) been properly served with summons pursuant to 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).

(c) When the court obtains jurisdiction over a juvenile as the result of a petition alleging that the juvenile is abused, neglected, or dependent:

- (1) Any other civil action in this State in which the custody of the juvenile is an issue is automatically stayed as to that issue, unless the juvenile proceeding and the civil custody action or claim are consolidated pursuant to subsection (d) of this section or the court in the juvenile proceeding enters an order dissolving the stay. When there is an automatic stay, the court shall ensure that a notice is filed in the stayed action if the county and case file number are made known to the court. The notice shall be on a printed form created by the North Carolina Administrative Office of the Courts, include notice of the stay, and provide the county and case file number for the action under this Article.
- (2) If an order entered in the juvenile proceeding and an order entered in another civil custody action conflict, the order in the juvenile proceeding controls as long as the court continues to exercise jurisdiction in the juvenile proceeding.

(d) Notwithstanding G.S. 50-13.5(f), the court in a juvenile proceeding may order that any civil action or claim for custody filed in the district be consolidated with the juvenile proceeding. If a civil action or claim for custody of the juvenile is filed in another district, the court in the juvenile proceeding, for good cause and after consulting with the court in the other district, may: (i) order that the civil action or claim for custody be transferred to the county in which the juvenile proceeding is filed; or (ii) order a change of

venue in the juvenile proceeding and transfer the juvenile proceeding to the county in which the civil action or claim is filed. The court in the juvenile proceeding may also proceed in the juvenile proceeding while the civil action or claim remains stayed or dissolve the stay of the civil action or claim and stay the juvenile proceeding pending a resolution of the civil action or claim. (1979, c. 815, s. 1; 1983, c. 837, s. 1; 1985, c. 459, s. 2; 1987, c. 409, s. 2; 1995, c. 328, s. 3; c. 462, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 23.2(c); 1998-202, s. 6; 1999-456, s. 60; 2001-62, s. 13; 2005-320, s. 1; 2005-399, s. 4; 2010-90, s. 3; 2011-295, s. 1; 2013-129, s. 2; 2017-161, s. 1; 2019-33, s. 2.)

### **§ 7B-201. Retention and termination of jurisdiction.**

(a) When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years or is otherwise emancipated, whichever occurs first.

(b) When the court's jurisdiction terminates, whether automatically or by court order, the court thereafter shall not modify or enforce any order previously entered in the case, including any juvenile court order relating to the custody, placement, or guardianship of the juvenile. The legal status of the juvenile and the custodial rights of the parties shall revert to the status they were before the juvenile petition was filed, unless applicable law or a valid court order in another civil action provides otherwise. Termination of the court's jurisdiction in an abuse, neglect, or dependency proceeding, however, shall not affect any of the following:

- (1) A civil custody order entered pursuant to G.S. 7B-911.
- (2) An order terminating parental rights.
- (3) A pending action to terminate parental rights, unless the court orders otherwise.
- (4) Any proceeding in which the juvenile is alleged to be or has been adjudicated undisciplined or delinquent.
- (5) The court's jurisdiction in relation to any new abuse, neglect, or dependency petition that is filed. (1979, c. 815, s. 1; 1981, c. 469, s. 4; 1996, 2nd Ex. Sess., c. 18, s. 23.2(d); 1998-202, s. 6; 1999-456, s. 60; 2005-320, s. 2.)

### **§ 7B-202. Permanency mediation.**

(a) The Administrative Office of the Courts shall establish a Permanency Mediation Program to provide statewide and uniform services to resolve issues in cases under this Subchapter in which a juvenile is alleged or has been adjudicated to be abused, neglected, or dependent, or in which a petition or motion to terminate a parent's rights has been filed. Participants in the mediation shall include the parties and their attorneys, including the guardian ad litem and attorney advocate for the child; provided, the court may allow mediation to proceed without the participation of a parent whose identity is unknown, a party who was served and has not made an appearance, or a parent, guardian, or custodian who has not been served despite a diligent attempt to serve the person. Upon a finding of good cause, the court may allow mediation to proceed without the participation of a parent

who is unable to participate due to incarceration, illness, or some other cause. Others may participate by agreement of the parties, their attorneys, and the mediator, or by order of the court.

(b) The Administrative Office of the Courts shall establish in phases a statewide Permanency Mediation Program consisting of local district programs to be established in all judicial districts of the State. The Director of the Administrative Office of the Courts is authorized to approve contractual agreements for such services as executed by order of the Chief District Court Judge of a district court district, such contracts to be exempt from competitive bidding procedures under Chapter 143 of the General Statutes. The Administrative Office of the Courts shall promulgate policies and regulations necessary and appropriate for the administration of the program. Any funds appropriated by the General Assembly for the establishment and maintenance of permanency mediation programs under this Article shall be administered by the Administrative Office of the Courts.

(c) Mediation proceedings shall be held in private and shall be confidential. Except as provided otherwise in this section, all verbal or written communications from participants in the mediation to the mediator or between or among the participants in the presence of the mediator are absolutely privileged and inadmissible in court.

(d) Neither the mediator nor any party or other person involved in mediation sessions under this section shall be competent to testify to communications made during or in furtherance of such mediation sessions; provided, there is no confidentiality or privilege as to communications made in furtherance of a crime or fraud. Nothing in this subsection shall be construed as permitting an individual to obtain immunity from prosecution for criminal conduct or as excusing an individual from the reporting requirements of Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102.

(e) Any agreement reached by the parties as a result of the mediation, whether referred to as a "placement agreement," "case plan," or some similar name, shall be reduced to writing, signed by each party, and submitted to the court as soon as practicable. Unless the court finds good reason not to, the court shall incorporate the agreement in a court order, and the agreement shall become enforceable as a court order. If some or all of the issues referred to mediation are not resolved by mediation, the mediator shall report that fact to the court. (2006-187, s. 4(a).)

§ 7B-203. Reserved for future codification purposes.

§ 7B-204. Reserved for future codification purposes.

§ 7B-205. Reserved for future codification purposes.

§ 7B-206. Reserved for future codification purposes.

§ 7B-207. Reserved for future codification purposes.



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§ 7B-298. Reserved for future codification purposes.

§ 7B-299. Reserved for future codification purposes.

### Article 3.

#### Screening of Abuse and Neglect Complaints.

##### **§ 7B-300. Protective services.**

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

Protective services shall include the screening of reports, the performance of an assessment using either a family assessment response or an investigative assessment response, casework, or other counseling services to parents, guardians, or other caretakers as provided by the director to help the parents, guardians, or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents, guardians, or caretakers, and to preserve and stabilize family life. (1979, c. 815, s. 1; 1981, c. 359, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 1; 1997-506, s. 31; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 2; 2015-123, s. 2.)

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

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

(b) Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.

(c) Repealed by Session Laws 2015-123, s. 3, effective January 1, 2016. (1979, c. 815, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 2; 1993, c. 516, s. 4; 1997-506, s. 32; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 3; 2013-52, s. 7; 2015-123, s. 3.)

**§ 7B-302. Assessment by director; military affiliation; access to confidential information; notification of person making the report.**

(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, including collecting information concerning the military affiliation of the parent, guardian, custodian, or caretaker of the juvenile alleged to have been abused or neglected, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment of a juvenile or unlawful transfer of custody under G.S. 14-321.2, the director shall immediately initiate an assessment. When the report alleges abandonment, the director shall also take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not required. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child.

(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except under the following circumstances:

- (1) The department shall disclose confidential information to any federal, State, or local government entity or its agent, or any private child placing or adoption agency licensed by the Department of Health and Human Services, in order to protect a juvenile from abuse or neglect. The disclosure of confidential information pursuant to this subdivision shall include sharing information with the appropriate military authority if the director finds evidence that a juvenile may have been abused or neglected and the parent, guardian, custodian, or caretaker of the juvenile alleged to

have been abused or neglected has a military affiliation. Any confidential information disclosed to any federal, State, or local government entity or its agent under this subsection shall remain confidential with the other entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.

- (1a) The department shall disclose confidential information regarding the identity of the reporter to any federal, State, or local government entity or its agent with a court order. The department may only disclose confidential information regarding the identity of the reporter to a federal, State, or local government entity or its agent without a court order when the entity demonstrates a need for the reporter's name to carry out the entity's mandated responsibilities.
- (2) The juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated is authorized to review the record and request all or part of the record unless prohibited by federal law. The department shall provide electronic or written copies of the requested information within a reasonable period of time.
- (3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the court, for in camera review, if the surrender is necessary to make the required determinations.
- (4) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review prior to releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (2) of this subsection.
- (5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700 of this Subchapter.

(a2) If the director, at any time after receiving a report that a juvenile may be abused, neglected, or dependent, determines that the juvenile's legal residence is in another county, the director shall promptly notify the director in the county of the juvenile's residence, and the two directors shall coordinate efforts to ensure that appropriate actions are taken.

(a3) Except where prohibited by federal law, including state plan requirements within federal programs, and notwithstanding other applicable State law, any of the following may request access to confidential information and records maintained pursuant to this Article by the Department or a county department of social services:

- (1) An individual member of the North Carolina General Assembly.
- (2) A joint legislative oversight committee of the North Carolina General Assembly.

A request made pursuant to this subsection shall be made to the Department or to the director of a county department of social services. The request shall be limited to purposes necessary for oversight of programs related to child protective services. Upon receiving a request pursuant to this subsection, the Department shall coordinate with the county department of social services to obtain all necessary information or records responsive to the request. A county department of social services shall provide the Department with all information and records, or copies of records, as requested. If the request is made to the director of a county department of social services, the Department shall assist the director of the county department of social services in fulfilling the request and providing all necessary information or records in accordance with this subsection. Upon receipt of a request from an individual member of the North Carolina General Assembly, the Department shall make the confidential information and records available for inspection and examination at the county department of social services. Upon the request of a joint legislative oversight committee, the Department shall assist the director of the county department of social services with sharing the confidential information and records with the requesting committee in a closed session in accordance with G.S. 143-318.11(a)(1).

The confidential information or records shared pursuant to this subsection shall be the minimum necessary to satisfy the request. A member of the North Carolina General Assembly or joint legislative oversight committee shall not retain copies of any part of the information and records or take photographs or create electronic images of any information and records reviewed pursuant to a request under this subsection. All information and records shared pursuant to this subsection shall be withheld from public inspection and maintained in a confidential manner. The following information shall remain confidential and shall not be shared or disclosed in response to a request for information and records made pursuant to this subsection:

- (1) The identity of a reporter.
- (2) Juvenile court records as set forth in Article 29 of Subchapter III of this Chapter and Article 30 of Subchapter III of this Chapter.

(a4) Any violation of subsection (a3) of this section shall be punishable as a Class 1 misdemeanor.

(a5) The disclosure of confidential information pursuant to subsection (a3) of this section may only be requested for information received or created by the agency on or after the effective date of this section.

(b) When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional setting is received, the director of the department of social services shall immediately ascertain if



other juveniles live in the home, and, if so, initiate an assessment in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. When a report of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting such as a residential child care facility or residential educational facility is received, the director of the department of social services shall immediately ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision, and, if so, assess the circumstances of those juveniles in order to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection.

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

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

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

(e) In performing any duties related to the assessment of the report or the provision or arrangement for protective services, the director may consult with any public or private agencies or individuals, including the available State or local law enforcement officers who shall assist in the assessment and evaluation of the seriousness of any report of abuse, neglect, or dependency when requested by the director. The director or the director's representative may make a written demand for any information or reports, whether or not confidential, that may in the director's opinion be relevant to the assessment or provision of protective services. Upon the director's or the director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of the information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will

undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such an action, the custodian of the records shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this paragraph shall be set down for immediate hearing, and subsequent proceedings in the actions shall be accorded priority by the trial and appellate courts.

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

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

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

- (1) The reasonable belief that a juvenile is in imminent danger of death or serious physical injury.
- (2) The permission of the parent or person responsible for the juvenile's care.
- (3) The accompaniment of a law enforcement officer who has legal authority to enter the residence.
- (4) An order from a court of competent jurisdiction. (1979, c. 815, s. 1; 1985, c. 205; 1991, c. 593, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 3; 1993, c. 516, s. 5; 1995, c. 411, s. 1; 1997-390, s. 3.1; 1998-202, s. 6; 1998-229, ss. 2, 19; 1999-190, s. 2; 1999-318, s. 2; 1999-456, s. 60; 2001-291, s. 1; 2003-304, s. 4.1; 2005-55, s. 4; 2006-205, s. 1; 2009-311, s. 1; 2012-153, s. 6; 2015-123, s. 4; 2016-94, s. 12C.1(e); 2016-115, s. 4; 2017-102, s. 2; 2019-201, s. 3(a); 2021-100, s. 2; 2021-132, s. 1(c).)

### **§ 7B-303. Interference with assessment.**

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

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

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

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

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

(f) An order entered pursuant to this section is enforceable by civil or criminal contempt as provided in Chapter 5A of the General Statutes. (1987, c. 409, s. 1; 1993, c. 516, s. 6; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 5.)

§ 7B-304: Repealed by Session Laws 2003, c. 140, s. 1, effective June 4, 2003.

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

The person making the report shall have five working days, from receipt of the decision of the director of the department of social services not to petition the court, to notify the prosecutor that the person is requesting a review. The prosecutor shall notify the person making the report and the director of the time and place for the review, and the director shall immediately transmit to the prosecutor a copy of a summary of the assessment. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 6.)

**§ 7B-306. Review by prosecutor.**

The prosecutor shall review the director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or the juvenile's family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the director, may request the appropriate local law enforcement agency to investigate the allegations, or may direct the director to file a petition. (1979, c. 815, s. 1; 1981, c. 469, s. 7; 1993, c. 516, s. 7; 1998-202, s. 6; 1999-456, s. 60.)

**§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification to appropriate military authority; notification of Department of Health and Human Services.**

(a) If the director finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency, including notifying the appropriate military authority that there is evidence of abuse or neglect of a juvenile by a parent, guardian, custodian, or caretaker with that military affiliation, within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services assessment being conducted by the county department of social services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the director or the director's designee to appear before a magistrate.

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

If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile or child maltreatment, as defined in G.S. 110-105.3, in child care, the director shall notify the Department of Health and Human Services within 24 hours or on the next working day of receipt of the report.

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

(b), (c) Repealed by Session Laws 2015-123, s. 5, effective January 1, 2016. (1979, c. 815, s. 1; 1983, c. 199; 1985, c. 757, s. 156(s)-(u); 1991, c. 593, s. 2; 1991 (Reg. Sess., 1992), c. 923, s. 4; 1993, c. 516, s. 8; 1997-443, s. 11A.118(a); 1997-506, s. 33; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 7; 2015-123, s. 5; 2019-201, s. 3(b).)

### **§ 7B-308. Authority of medical professionals in abuse cases.**

(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

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

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

unless the director and the certifying physician together voluntarily dismiss the petition.

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

(c) If, upon hearing, the court determines that the juvenile is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and G.S. 7B-904.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7B-302.

(f) The procedures in this section are in addition to, and not in derogation of, the abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or administrator and a director of social services from following the procedures of G.S. 7B-301 and G.S. 7B-500 whenever these procedures are more appropriate to the juvenile's circumstances. (1979, c. 815, s. 1; 1981, c. 716, s. 2; 1995, c. 255, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 8.)

#### **§ 7B-309. Immunity of persons reporting and cooperating in an assessment.**

Anyone who makes a report pursuant to this Article; cooperates with the county department of social services in a protective services assessment; testifies in any judicial proceeding resulting from a protective services report or assessment; provides information or assistance, including medical evaluations or consultation in connection with a report, investigation, or legal intervention pursuant to a good-faith report of child abuse or neglect; or otherwise participates in the program authorized by this Article; is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed. (1979, c. 815, s. 1; 1981, s. 469, s. 8; 1993, c. 516, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 9; 2019-240, s. 18.)

#### **§ 7B-310. Privileges not grounds for failing to report or for excluding evidence.**

No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in

the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications. (1979, c. 815, s. 1; 1987, c. 323, s. 1; 1993, c. 514, s. 3; c. 516, s. 10; 1995, c. 509, s. 133; 1998-202, s. 6; 1999-456, s. 60.)

**§ 7B-311. Central registry; responsible individuals list.**

(a) The Department of Health and Human Services shall maintain a central registry of abuse, neglect, and dependency cases and child fatalities that are the result of alleged maltreatment that are reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county directors of social services to the Department of Health and Human Services and shall be confidential, subject to rules adopted by the Social Services Commission providing for its use for study and research and for other appropriate disclosure. Data shall not be used at any hearing or court proceeding unless based upon a final judgment of a court of law.

(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:

- (1) The individual is properly notified pursuant to G.S. 7B-320 and fails to file a petition for judicial review in a timely manner.
- (2) The court determines that the individual is a responsible individual as a result of a hearing on the individual's petition for judicial review.
- (3) The individual is criminally convicted as a result of the same incident involved in an investigative assessment response.

(c) It is unlawful for any public official or public employee to knowingly and willfully release information from either the central registry or the responsible individuals list to a person who is not authorized to receive the information. It is unlawful for any person who is authorized to receive information from the central registry or the responsible individuals list to release that information to an unauthorized person. It is unlawful for any person who is not authorized to receive information from the central registry or the responsible individuals list to access or attempt to access that information. A person who commits an offense described in this subsection is guilty of a Class 3 misdemeanor.

(d) The Social Services Commission shall adopt rules regarding the operation of the central registry and responsible individuals list, including procedures for each of the following:

- (1) Filing data.

- (2) Notifying an individual that the individual has been determined by the director to be a responsible individual.
- (3) Correcting and expunging information.
- (4) Determining persons who are authorized to receive information from the responsible individuals list.
- (5) Releasing information from the responsible individuals list to authorized requestors.
- (6) Gathering statistical information.
- (7) Keeping and maintaining information placed in the registry and on the responsible individuals list.
- (8) Repealed by Session Laws 2010-90, s. 4, effective July 11, 2010. (1979, c. 815, s. 1; 1993, c. 516, s. 11; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-456, s. 60; 2005-399, s. 2; 2010-90, s. 4; 2013-129, s. 3.)

§ 7B-312: Reserved for future codification purposes.

§ 7B-313: Reserved for future codification purposes.

§ 7B-314: Reserved for future codification purposes.

§ 7B-315: Reserved for future codification purposes.

§ 7B-316: Reserved for future codification purposes.

§ 7B-317: Reserved for future codification purposes.

§ 7B-318: Reserved for future codification purposes.

§ 7B-319: Reserved for future codification purposes.

### Article 3A.

#### Judicial Review; Responsible Individuals List.

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

(a) 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 in an expeditious manner.

(a1) If the director determines that the juvenile is the victim of human trafficking by an individual other than the juvenile's parent, guardian, custodian, or caretaker, the director shall cooperate with the local law enforcement agency and district attorney to determine the safest way, if possible, to provide notification to the identified responsible individual. If the



director does not provide notification in accordance with this subsection, the director shall document the reason and basis for not providing the notification.

The director shall not provide notification to the responsible individual or proceed further under this Article if notification is likely to cause any of the following to occur:

- (1) Cause mental or physical harm or danger to the juvenile.
- (2) Undermine an ongoing or future criminal investigation.
- (3) Jeopardize the State's ability to prosecute the identified responsible individual.

(b) If personal written notice is not made within 15 days of the determination and the director has made diligent efforts to locate the identified individual, the director shall send the notice to the individual by registered or certified mail, 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. (2005-399, s. 3; 2010-90, s. 5; 2013-129, s. 4; 2019-33, s. 3; 2021-132, s. 2(a).)

**§ 7B-321:** Repealed by Session Laws 2010-90, s. 6, effective July 11, 2010.

**§ 7B-322:** Repealed by Session Laws 2010-90, s. 6, effective July 11, 2010.

**§ 7B-323. Petition for judicial review; district court.**

(a) Within 15 days of the receipt of notice of the director's determination under G.S. 7B-320(a) or (b), an individual may file a petition for judicial review with the district court of the county in which the abuse or serious neglect report arose. The request shall be by a petition for judicial review filed with the appropriate clerk of court's office with a copy

delivered in person or by certified mail, return receipt requested, to the director who determined the abuse or serious neglect and identified the individual as a responsible individual. The petition for judicial review shall contain the name, date of birth, and address of the individual seeking judicial review, the name of the juvenile who was the subject of the determination of abuse or serious neglect, and facts that invoke the jurisdiction of the court. Failure to timely file a petition for judicial review constitutes a waiver of the individual's right to a district court hearing and to contest the placement of the individual's name on the responsible individuals list.

(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 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, their witnesses, and law enforcement investigating the same allegations. 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, including, but not limited to, child medical evaluation reports and child and family evaluation reports that the director relied on to make the determination that abuse or serious neglect occurred, if the general purposes of the rules of evidence and the interests of justice will best be served by its admission.

(b1) Upon receipt of a notice of hearing for judicial review, the director who identified the individual as a responsible individual shall review all records, reports, and other information gathered during the investigative assessment response. If after a review, the director determines that there is not sufficient evidence to support a determination that the individual abused or seriously neglected the juvenile and is a responsible individual, the director shall prepare a written statement of the director's determination and either deliver the statement personally to the individual seeking judicial review or send the statement by first-class mail. The director shall also give written notice of the director's determination to the clerk to be placed in the court file, and the judicial review hearing shall be cancelled with notice of the cancellation given by the clerk to the petitioner.

(c) At the hearing, the following rights of the parties shall be preserved:

(1) The right to present sworn evidence, law, or rules that bear upon the case.

- (2) The right to represent themselves or obtain the services of an attorney at their own expense.
- (3) The right to subpoena witnesses, cross-examine witnesses of the other party, and make a closing argument summarizing the party's view of the case and the law.

(d) Within 30 days after completion of the hearing, the court shall enter an order containing findings of fact and conclusions of law. The clerk shall serve a copy of the order on each party or the party's attorney of record. If the court concludes that the director has not established by a preponderance of the evidence abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's determination and order the director not to place the individual's name on the responsible individuals list. If the court concludes that the director has established by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual, the court shall order the director to place the individual's name on the responsible individuals list, consistent with the court's order.

(e) Notwithstanding any time limitations contained in this section or the provisions of G.S. 7B-324(a)(4), upon the filing of a petition for judicial review by an individual identified by a director as a responsible individual, the district court of the county in which the abuse or neglect report arose may review a director's determination of abuse or serious neglect at any time if the review serves the interests of justice or for extraordinary circumstances. If the district court undertakes such a review, a hearing shall be held pursuant to this section at which the director shall have the burden of establishing by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. If the court concludes that the director has not established by a preponderance of the evidence abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's determination and order the director to expunge the individual's name from the responsible individuals list.

(f) A party may appeal the district court's decision under G.S. 7A-27(b)(2). (2005-399, s. 3; 2010-90, s. 7; 2013-129, s. 5; 2015-247, s. 7; 2019-33, s. 4.)

#### **§ 7B-324. Persons ineligible to petition for judicial review.**

(a) An individual who has been identified by a director as a responsible individual is not eligible 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) Repealed by Session Laws 2013-129, s. 6, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (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.

(a) If the individual is criminally convicted as a result of the same incident after the petition for judicial review is filed, the court shall dismiss the petition for judicial review with prejudice.

(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. (2005-399, s. 3; 2010-90, s. 8; 2013-129, s. 6; 2019-33, s. 5.)

§ 7B-325: Reserved for future codification purposes.

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#### Article 4.

#### Venue; Petitions.

#### § 7B-400. Venue.

(a) A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the judicial district in which the juvenile resides or is present at the time the petition is filed. If a regional social services department includes counties in more than one judicial district, the department shall file in the judicial district where the child resides or was present when the report required by G.S. 7B-301 was received. 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. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2009-311, s. 2; 2013-129, s. 7; 2017-41, s. 4.4.)

### **§ 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. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2013-129, s. 8.)

#### **§ 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, or safely surrendered the infant and has not sought the return of the infant prior to the filing of a termination of parental rights, unless the court orders that the parent be made a party.
- (3) The parent has been convicted under G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 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.



(e1) Foster Parent. – A foster parent as defined in G.S. 131D-10.2(9a) providing foster care for the juvenile is not a party to the case and may be allowed to intervene only if the foster parent has authority to file a petition to terminate the parental rights of the juvenile's parents pursuant to G.S. 7B-1103.

(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) and subsection (e1) of this section, the court shall not allow intervention by a person who is not the juvenile's parent, guardian, or custodian, 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.

(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the young adult in foster care and the director of the department of social services are parties. (2013-129, s. 9; 2015-136, s. 2; 2015-181, s. 22; 2015-241, s. 12C.9(h); 2015-264, s. 33(a); 2016-94, s. 12C.1(f); 2023-14, s. 6.2(c).)

#### **§ 7B-402. Petition.**

(a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of each party as determined by G.S. 7B-401.1, and allegations of facts sufficient to invoke jurisdiction over the juvenile. 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 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. (1979, c. 815, s. 1; 1981, c. 469, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2004-128, s. 11; 2005-320, s. 3; 2009-311, s. 3; 2010-90, s. 9; 2013-129, s. 10.)

#### **§ 7B-403. Receipt of reports; filing of petition.**

(a) All reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be drawn by the director, verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing.

(b) A decision of the director of social services not to file a report as a petition shall be reviewed by the prosecutor if review is requested pursuant to G.S. 7B-305. (1979, c. 815, s. 1; 1981, c. 469, ss. 10, 11; 1998-202, s. 6; 1999-456, s. 60.)

**§ 7B-404. Immediate need for petition when clerk's office is closed.**

(a) When the office of the clerk is closed, a magistrate shall accept for filing the following:

- (1) A petition alleging a juvenile to be abused, neglected, or dependent.
- (2) A petition alleging the obstruction of or interference with an assessment required by G.S. 7B-302.

(b) The authority of the magistrate under this section is limited to emergency situations when a petition must be filed to obtain a nonsecure custody order or an order under G.S. 7B-303. Any petition accepted for filing under this section shall be delivered to the clerk's office for processing as soon as that office is open for business. (1979, c. 815, s. 1; 1987, c. 409, s. 3; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 10; 2017-161, s. 2.)

**§ 7B-405. Commencement of action.**

An action is commenced by the filing of a petition in the clerk's office when that office is open or by the acceptance of a juvenile petition by a magistrate when the clerk's office is closed, which shall constitute filing. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2017-161, s. 3.)

**§ 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 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. 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 a parent may seek the appointment of counsel prior to a hearing if provisional counsel is not identified.
- (2a) Repealed by Session Laws 2013-129, s. 11, effective October 1, 2013, and applicable to actions filed or pending on or after that date.
- (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. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 2; 1995, c. 328, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-183, s. 1; 2001-208, s. 1; 2001-487, s. 101; 2004-128, s. 12; 2010-90, s. 10; 2013-129, s. 11.)

**§ 7B-407. Service of summons.**

The summons shall be served under G.S. 1A-1, Rule 4, 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 service by publication under G.S. 1A-1, Rule 4(j1), or service in a foreign country under Rule 4(j3), 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. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-304, s. 1; 2013-129, s. 12; 2017-161, s. 4.)

**§ 7B-408. Copy of petition and notices to guardian ad litem.**

Immediately after a petition has been filed alleging that a juvenile is abused or neglected, the clerk shall provide a copy of the petition and any notices of hearings to the local guardian ad litem office. (2003-140, s. 6)

**§ 7B-409:** Reserved for future codification purposes.

**§ 7B-410:** Reserved for future codification purposes.

**§ 7B-411:** Reserved for future codification purposes.

**§ 7B-412:** Reserved for future codification purposes.