

March 16, 2005

**H 661. SUBSTANTIATION APPEAL PROCESS/JUV. ABUSE/NEG. AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A SUBSTANTIATION APPEAL PROCESS FOR THOSE INDIVIDUALS ALLEGED TO BE RESPONSIBLE FOR ABUSE OR NEGLECT OF A JUVENILE IN A SUBSTANTIATED REPORT UNDER THE LAWS REGULATING JUVENILE ABUSE, NEGLECT, AND DEPENDENCY.** Amends GS 7B-101 to define "substantiated" to mean that at the conclusion of an investigative assessment, the director of a local dep't of social services (DSS) has found substantial evidence (relevant evidence a reasonable mind would accept as adequate to support a conclusion) that a juvenile is abused, neglected, or dependent. Amends GS 7B-302 to require DSS, within 5 working days after completing an investigative assessment, to give written notice to the person identified in a substantiated case as the alleged person responsible for rendering the juvenile abused or neglected. The notice must inform the person of the nature of the report and whether DSS substantiated abuse or neglect, or both; summarize the substantial evidence without identifying the reporter or collateral contacts; inform the individual that his or her name will be placed on the responsible individual list, and the potential effect that placement might have on employment involving child care, applying to be a foster parent, or seeking to adopt a child; and describe what action the person may take to request expunction of his or her name from the list. Amends GS 7B-311 to require the Dep't of Health and Human Services to maintain a list of individuals responsible for rendering a juvenile abused or neglected in substantiated cases in order to exchange information with authorized requesters. Enacts new GS 7B-312 setting out procedure for person identified as alleged responsible individual in a substantiated report of abuse and neglect to request the DSS director who rendered the substantiation to expunge the person's name from the responsible individual list on the grounds that the substantiation of abuse is not supported by substantial evidence in the records, reports, or other case documentation of the local DSS. Requires request for expunction to be delivered in person or posted by US mail within 15 days after receipt of the notice of a substantiated case. Effective for actions or petitions filed on or after October 1, 2005.

**Intro. by Glazier.**

Ref. to Judiciary IV

GS 7B

May 25, 2005

**H 661. SUBSTANTIATION APPEAL PROCESS/JUV. ABUSE/NEG.** Intro. 3/16/05. House committee substitute makes the following changes to 1st edition. To clarify purpose of act, changes title to *AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A LIST OF INDIVIDUALS RESPONSIBLE FOR ABUSE OR NEGLECT OF A JUVENILE UNDER THE LAWS REGULATING JUVENILE ABUSE, NEGLECT, AND DEPENDENCY AND ESTABLISHING A PROCESS FOR EXPUNCTION FROM THAT LIST.* Makes several technical changes. Specifies that, before a person's name is added to the responsible person's list, written notice of the determination of abuse or neglect must be personally served upon the responsible person by the sheriff. Certified mail can be used only if the sheriff is unable to serve, and publication is allowed only when both other methods fail to deliver the notice. Clarifies that the Social Services Commission may adopt rules determining persons authorized to receive information from the responsible individuals list. Extends the time for a responsible individual to request expunction of name from list from 15 to 30 days after receipt of notice. If social services director denies request for expunction, allows responsible person 30 days (was 15 days) to seek judicial review of the denial. Original bill required the filing of a juvenile petition when a responsible person requests judicial review of the denial of a request to remove his or her name from the list. Amended bill creates a district court juvenile proceeding to review the expunction request. Provides that the responsible person file a petition for expunction to be served upon the director who determined that petitioner's name should be on the list. At the hearing, the director has the burden of proving the correctness of the director's determination of abuse or neglect and identification of petitioner as the responsible person. Provides that responsible person loses right to seek expunction if (1) the person is criminally convicted as a result of the same incident, (2) the individual is a respondent in a juvenile proceeding resulting

from the same incident, (3) the individual fails to make a timely request for expunction or for review of a denial of a request for expunction, or (4) the individual fails to keep the department of social services informed of his or her current address throughout the investigative and review process. Provides that the court must stay an expunction proceeding if the responsible individual becomes a respondent in a juvenile proceeding involving the same incident. Also specifies that the person's name must be removed from the list if a juvenile proceeding results in a finding that the abuse did not occur or that the named person was not responsible, or if the juvenile petition is dismissed. Specifies that the act applies to abuse and neglect reports received by county departments of social services on or after October 1, 2005.

June 1, 2005

**H 661. SUBSTANTIATION APPEAL PROCESS/JUV. ABUSE/NEG.** Intro. 3/16/05. House amendment makes the following changes to 2nd edition. Amends act to change references from "neglect" or "neglected" to "serious neglect" or "seriously neglected," respectively. Modifies proposed GS 7B-302(g1) to delete requirement that notice be made by publication if written notice cannot be served by the sheriff or by certified mail. Modifies proposed GS 7B-312 to provide that individual seeking expunction may also request a review of the Director's decision by the District Attorney and to set forth procedures for that review. Also amends section to require (was, authorize) court to close hearing on petition for expunction upon a party's request, to require that the prosecutor and director provide the Dep't of Health and Human Services with information about results of criminal and juvenile proceedings, and to provide that a district court may review a determination of abuse or serious neglect at any time under extraordinary circumstances. Amends GS 7B-311 to require that Social Services Comm'n also adopt rules concerning the development of penalties for unlawful dissemination of the central registry information. Makes technical and conforming changes.

July 12, 2005

**H 661. RESP. INDIVIDUALS LIST/EXPUNCTION PROCESS (NEW).** Intro. 3/16/05. Senate committee substitute makes the following changes to 3rd edition. Restructures and makes technical and clarifying changes to most of the bill's language. Provides criminal penalties (Class 3 misdemeanor) for knowing and willful release of information from the registry and list to unauthorized persons. Requires the Social Services Commission to adopt rules to implement the registry and list, including a newly required definition of "serious neglect." Collects procedures for expunction in a new article 3A in GS chapter 7B. Reduces the length of time for response by the director of social services to a request for expunction to 15 (was 30) days, after which the failure to respond can be treated as a denial of the request. Clarifies the standard of review (substantial evidence) and process for review by a district attorney of a determination of abuse or serious neglect. Expressly provides for district court review of such a determination at any time, notwithstanding limitations on the time for appeals.

August 12, 2005

**H 661. RESP. INDIVIDUALS LIST/EXPUNCTION PROCESS.** Intro. 3/16/05. Senate committee substitute makes the following changes to 4th edition. Requires social services director to provide personal, written notice to the individual who is responsible for rendering a juvenile abused or seriously neglected. Provides that if personal written notice is not obtained within 15 days of the determination, the director must send notice to the responsible individual by registered or certified mail, return receipt requested. Provides that district attorney may delegate to designee in district attorney's office the review of the director's denial of expunction request. Requires that district attorney, as well as other specified officials or agencies, stay proceedings for expunction if individual seeking expunction is named as a respondent in a juvenile court case involving the same incident. Makes additional technical changes.

September 21, 2005

**SL 2005-399 (H 661). RESPONSIBLE INDIVIDUALS LIST/EXPUNCTION PROCESS. AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A LIST OF INDIVIDUALS RESPONSIBLE FOR ABUSE OR SERIOUS NEGLECT OF A JUVENILE UNDER THE LAWS REGULATING JUVENILE ABUSE, NEGLECT, AND DEPENDENCY AND ESTABLISHING A PROCESS FOR EXPUNCTION FROM THAT LIST.** Summarized in *Daily Bulletin* 3/16/05, 5/25/05, 6/1/05, 7/12/05, and 8/12/05. Enacted September 14, 2005. Effective October 1, 2005.