



**NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
Senate Bill 567**

S567-CRSB-39 [v.3]

Page 1 of 2

[NO] Title Change

[YES] For Committee Substitute

To: The President of the Senate
 The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 567, A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS PERTAINING TO THE RESPONSIBLE INDIVIDUALS LIST AS RELATED TO JUVENILE ABUSE, NEGLECT, AND DEPENDENCY, House Committee Substitute Favorable 5/26/10, submit the following report:

The Senate and the House agree to the following amendment to the House Committee Substitute Favorable 5/26/10, and the Senate concurs in the House Committee Substitute as amended:

Delete the entire House Committee Substitute Favorable 5/26/10, and substitute the attached Proposed Conference Committee Substitute S567-PCCS65089-SB-1.



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NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT

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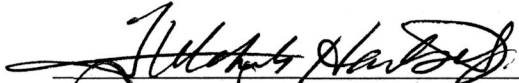
The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: ~~June 30~~, 2010.

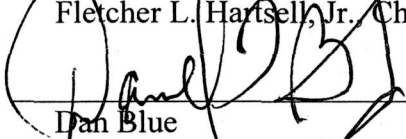
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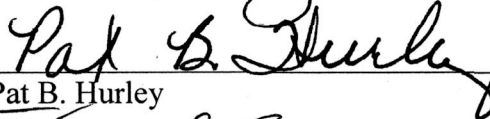
Conferees for the Senate

Conferees for the
House of Representatives

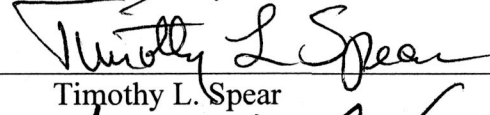

Fletcher L. Hartsell, Jr., Chair

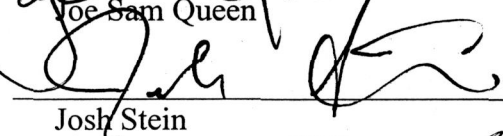

Rick Glazier, Chair

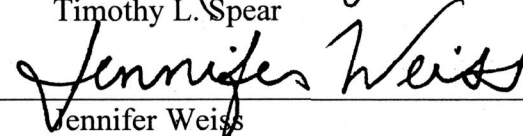

Dan Blue

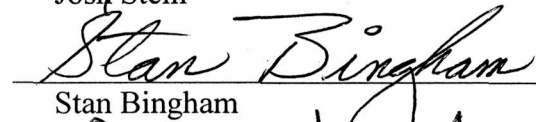

Pat B. Hurley


Joe Sam Queen


Timothy L. Spear


Josh Stein


Jennifer Weiss

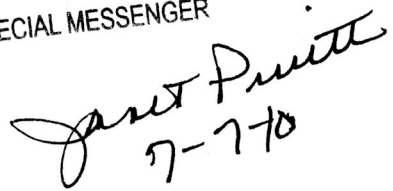

Stan Bingham


John Snow

Senate
Submitted 7-6-10
ADOPTED 7-7-10
ADOPTED

48/0 Message Received
(/) Ordered Enrolled

BY SPECIAL MESSENGER


7-7-10

PLACED ON CALENDAR FOR
7-7-10

136

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 567
Commerce Committee Substitute Adopted 5/5/09
Third Edition Engrossed 5/6/09
House Committee Substitute Favorable 5/26/10
Proposed Conference Committee Substitute S567-PCCS65089-SB-1

Short Title: Responsible Individuals List/Abuse & Neglect.

(Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS PERTAINING TO THE RESPONSIBLE INDIVIDUALS
LIST AS RELATED TO JUVENILE ABUSE, NEGLECT, AND DEPENDENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-101(18a) reads as rewritten:

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

...

(18a) Responsible individual. – ~~An individual identified by the director as the person who is responsible for rendering a juvenile abused or seriously neglected.~~ A parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile.

...."

SECTION 2. G.S. 7B-101 is amended by adding a new subdivision to read:

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

...

(19a) 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.

...."

SECTION 3. G.S. 7B-200(a)(9) reads as rewritten:

"(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:

...



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1 (7) Keeping and maintaining information placed in the registry and on the
2 responsible individuals list.

3 (8) ~~A definition of "serious neglect".~~

4 **SECTION 5.** The title of Article 3A of Chapter 7B of the General Statutes and
5 G.S. 7B-320 read as rewritten:

6 "Article 3A.

7 ~~Expunction; Judicial Review;~~ Responsible Individuals List.

8 "**§ 7B-320. Notification to individual determined to be a responsible for abuse or**
9 **substantial neglect. individual.**

10 (a) Within five working days after the completion of an investigative assessment
11 response that results in a determination of abuse or serious ~~neglect,~~neglect and the
12 identification of a responsible individual, the director shall notify the Department of the results
13 of the assessment and shall give personalpersonally deliver written notice of the determination
14 to the responsible individual of the determination. identified individual.

15 (b) If personal written notice is not ~~obtained~~made within 15 days of the ~~determination~~
16 ~~being made,~~determination, the director shall send the notice to the ~~responsible identified~~
17 individual by registered or certified mail, restricted delivery, return receipt requested, and
18 addressed to the ~~responsible individual~~ at the individual's last known address. ~~Only the~~
19 ~~responsible individual may receive the notice.~~

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

21 (1) A statement informing the individual of the nature of the investigative
22 assessment response and whether the director determined abuse or serious
23 neglect or both.

24 (1a) A statement that the individual has been identified as a responsible
25 individual.

26 (2) A statement summarizing the substantial evidence supporting the director's
27 determination without identifying the reporter or collateral contacts.

28 (3) A statement informing the individual that unless the individual petitions for
29 judicial review, the individual's name ~~has been~~will be placed on the
30 responsible individuals list as provided in G.S. 7B-311, and that the
31 Department of Health and Human Services may provide information from
32 this list to child caring institutions, child placing agencies, group home
33 facilities, and other providers of foster care, child care, or adoption services
34 that need to determine the fitness of individuals to care for or adopt children.

35 (4) A clear description of the actions the individual must take ~~to have his or her~~
36 ~~name removed from the responsible individuals list. The description shall~~
37 ~~include information regarding how to request an expunction by the director~~
38 ~~of the individual's name from the responsible individuals list and procedures~~
39 ~~for seeking review by the district attorney and for seeking to seek judicial~~
40 ~~review of the director's decision not to remove the individual's name from~~
41 ~~the list. determination.~~

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

44 **SECTION 6.** G.S. 7B-321 and G.S. 7B-322 are repealed.

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

46 "**§ 7B-323. Petition for expunction; judicial review; district court.**

47 (a) Within ~~30~~15 days of the receipt of notice of the director's decision ~~under~~
48 ~~G.S. 7B-321(b) or (c), or within 30 days from the date of a determination by the district~~
49 ~~attorney under G.S. 7B-322, whichever is later,~~determination under G.S. 7B-320(a) or (b), an
50 individual may file a petition for expunction-judicial review with the district court of the county
51 in which the abuse or serious neglect report arose. The request shall be by a petition for

1 ~~evidence to support a determination of the director has established by a preponderance of the~~
 2 ~~evidence abuse or serious neglect and the identification of the individual seeking expunction~~
 3 ~~judicial review as a responsible individual, the court shall modify the director's decision and~~
 4 ~~order the director to notify the Department of Health and Human Services to change the entry~~
 5 ~~place the individual's name on the responsible individuals list to that of neglect list, consistent~~
 6 ~~with the court's order.~~

7 (e) Notwithstanding any time limitations contained in this section or the provisions of
 8 ~~G.S. 7B-324(a)(3) or (4), G.S. 7B-324(a)(4), upon the filing of a petition for judicial review by~~
 9 ~~an individual identified by a director as a responsible individual, the a district court of the~~
 10 ~~county in which the abuse or neglect report arose may review a director's determination of~~
 11 ~~abuse or serious neglect at any time if the review serves the interests of justice or for~~
 12 ~~extraordinary circumstances. If the district court undertakes such a review, a hearing shall be~~
 13 ~~held pursuant to this section at which the director shall have the burden of establishing by a~~
 14 ~~preponderance of the evidence abuse or serious neglect and the identification of the individual~~
 15 ~~seeking judicial review as a responsible individual. If the court concludes that the director has~~
 16 ~~not established by a preponderance of the evidence abuse or serious neglect or the identification~~
 17 ~~of the responsible individual, the court shall reverse the director's determination and order the~~
 18 ~~director to expunge the individual's name from the responsible individuals list.~~

19 (f) A party may appeal the district court's decision under G.S. 7A-27(c)."

20 SECTION 8. G.S. 7B-324 reads as rewritten:

21 "**§ 7B-324. Persons ineligible to request expunction; petition for judicial review; stay of**
 22 **expunction-judicial review proceeding pending juvenile court case.**

23 (a) ~~Any An individual who has been identified by a director as a responsible individual~~
 24 ~~in an abuse or serious neglect case is not entitled to challenge the placement of the individual's~~
 25 ~~name on the responsible individuals list may not petition for judicial review if any of the~~
 26 following apply:

27 (1) The individual is criminally convicted as a result of the same incident. The
 28 district attorney shall inform the director of the result of the criminal
 29 proceeding, and the director shall immediately notify the Department of
 30 Health and Human Services. The Department shall consider this information
 31 when determining whether the individual's name should remain on or be
 32 expunged from the responsible individuals list. proceeding.

33 (2) The individual is a respondent in a juvenile court proceeding regarding
 34 abuse or neglect resulting from the same incident. The director shall
 35 immediately notify the Department of Health and Human Services. The
 36 Department shall consider this information when determining whether the
 37 individual's name should remain on or be expunged from the responsible
 38 individuals list. incident that concludes with an adjudication of abuse or
 39 neglect and a determination that the individual has abused or seriously
 40 neglected the juvenile and is a responsible individual.

41 (3) That individual fails to make a timely request for expunction with the
 42 director who made the determination of abuse or serious neglect and
 43 identified the individual as a responsible individual.

44 (4) That After proper notice, the individual fails to file a petition for expunction
 45 judicial review with the district court in a timely manner.

46 (5) That individual fails to keep the county department of social services
 47 informed of the individual's current address during any request for
 48 expunction so that the individual may receive notification of the director's
 49 decisions.

50 (b) ~~If, prior to or during any proceeding provided for in this section, If~~ an individual
 51 ~~seeking expunction-judicial review is named as a respondent in a juvenile court case resulting~~

- 1 d. May order the parent to pay for treatment that is ordered for the
2 juvenile or the parent.
3 e. May, upon proper notice and hearing and a finding based on the
4 criteria set out in G.S. 7B-1111, terminate the parental rights of the
5 respondent parent."

6 **SECTION 11.** G.S. 7B-800 reads as rewritten:

7 **"§ 7B-800. Amendment of petition.**

8 ~~The court court, in its discretion, may permit a petition to be amended when the amendment~~
9 ~~does not change the nature of the conditions upon which the petition is based.~~amended. The
10 court shall direct the manner in which an amended petition shall be served and the time allowed
11 for a party to prepare after the petition has been amended."

12 **SECTION 12.** G.S. 7B-805 reads as rewritten:

13 **"§ 7B-805. Quantum of proof in adjudicatory hearing.**

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

18 **SECTION 13.** G.S. 7B-807 is amended by adding a new subsection to read:

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

24 **SECTION 14.** This act is effective when it becomes law.