

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 68
PROPOSED COMMITTEE SUBSTITUTE H68-PCS70195-ST-13

Short Title: Establish Ombudsman/Foster Care/Gaston County.

(Local)

Sponsors:

Referred to:

February 6, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A FOSTER CARE OMBUDSMAN PILOT PROGRAM IN
3 GASTON COUNTY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** There is created a foster care ombudsman pilot program.

6 **SECTION 1.(b)** The Board of County Commissioners (Board) shall establish
7 qualifications for the selection of the foster care ombudsman, including the criteria that the
8 person selected shall have experience in child welfare and State laws and policies governing
9 children in foster care and shall remain objective and impartial when performing his or her
10 duties. The Board shall appoint a person to serve as the foster care ombudsman for a period of
11 time established by the Board. The ombudsman shall serve at the discretion and under the
12 direction and supervision of the Board.

13 **SECTION 1.(c)** The foster care ombudsman shall:

- 14 (1) When a juvenile is placed in foster care following a disposition order under
15 G.S. 7B-905, be a party in all actions under G.S. 7B-906 and G.S. 7B-907 on
16 behalf of the foster parents and permitted to speak on their behalf. The
17 County shall designate an attorney to assist the ombudsman, if requested by
18 the ombudsman.
- 19 (2) Determine the facts, the needs of the juvenile, and the available resources
20 within the family, foster community, and community to meet those needs; to
21 facilitate, when appropriate, the settlement of disputed issues; to explore
22 options with the court at the dispositional hearing; to report to the court
23 when the needs of the juvenile are not being met; and to protect and promote
24 the best interests of the juvenile as seen by the foster family.
- 25 (3) Have the authority to obtain any information or reports, whether or not
26 confidential, that may in the ombudsman's opinion be relevant to the case.
27 No privilege other than the attorney-client privilege may be invoked to
28 prevent the ombudsman from obtaining such information. The
29 confidentiality of the information or reports shall be respected by the
30 ombudsman, and no disclosure of any information or reports shall be made
31 to anyone except by order of the court or unless otherwise provided by law.
- 32 (4) Refer to the social services director and any appropriate law enforcement
33 any cause of suspect that any juvenile is abused, neglected, or dependent, as
34 defined by G.S. 7B-101.
- 35 (5) Be a resource and advocate for foster parents.



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- 1 (6) Provide to the director of social services a periodic report on foster
2 placements within the county, including any recommendations regarding
3 that placement or future placements.
- 4 (7) Compile and make available to the Board any data the ombudsman has
5 collected in the course of exercising his or her official duties.
- 6 (8) Provide information regarding the role, duties, and functions of foster
7 parents and the ombudsman, and the rights of children in foster care.
- 8 (9) Comply with any other duties or responsibilities deemed appropriate by the
9 Board.

10 **SECTION 2.** G.S. 7B-906(c) reads as rewritten:

11 "(c) At every review hearing, the court shall consider information from the parent, the
12 juvenile, the guardian, any foster parent, relative, or preadoptive parent providing care for the
13 child, the custodian or agency with custody, the guardian ad litem, the foster care ombudsman,
14 and any other person or agency which will aid in its review. The court may consider any
15 evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to
16 be relevant, reliable, and necessary to determine the needs of the juvenile and the most
17 appropriate disposition.

18 In each case the court shall consider the following criteria and make written findings
19 regarding those that are relevant:

- 20 (1) Services which have been offered to reunite the family, or whether efforts to
21 reunite the family clearly would be futile or inconsistent with the juvenile's
22 safety and need for a safe, permanent home within a reasonable period of
23 time.
- 24 (2) Where the juvenile's return home is unlikely, the efforts which have been
25 made to evaluate or plan for other methods of care.
- 26 (3) Goals of the foster care placement and the appropriateness of the foster care
27 plan.
- 28 (4) A new foster care plan, if continuation of care is sought, that addresses the
29 role the current foster parent will play in the planning for the juvenile.
- 30 (5) Reports on the placements the juvenile has had and any services offered to
31 the juvenile and the parent, guardian, custodian, or caretaker.
- 32 (6) An appropriate visitation plan.
- 33 (7) If the juvenile is 16 or 17 years of age, a report on an independent living
34 assessment of the juvenile and, if appropriate, an independent living plan
35 developed for the juvenile.
- 36 (8) When and if termination of parental rights should be considered.
- 37 (9) Any other criteria the court deems necessary."

38 **SECTION 3.** G.S. 7B-907 reads as rewritten:

39 **"§ 7B-907. Permanency planning hearing.**

40 (a) In any case where custody is removed from a parent, guardian, custodian, or
41 caretaker, the judge shall conduct a review hearing designated as a permanency planning
42 hearing within 12 months after the date of the initial order removing custody, and the hearing
43 may be combined, if appropriate, with a review hearing required by G.S. 7B-906. The purpose
44 of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent
45 home for the juvenile within a reasonable period of time. Subsequent permanency planning
46 hearings shall be held at least every six months thereafter, or earlier as set by the court, to
47 review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to
48 make a new permanent plan for the juvenile. The Director of Social Services shall make a
49 timely request to the clerk to calendar each permanency planning hearing at a session of court
50 scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing
51 and its purpose to the parent, the juvenile if 12 years of age or more, the guardian, the foster

1 parent, relative, or preadoptive parent providing care for the child, the custodian or agency with
2 custody, the guardian ad litem, the foster care ombudsman, and any other person or agency the
3 court may specify, indicating the court's impending review. The department of social services
4 shall either provide to the clerk the name and address of the foster parent, relative, or
5 preadoptive parent providing care for the child for notice under this subsection or file written
6 documentation with the clerk that the child's current care provider was sent notice of hearing.
7 Nothing in this provision shall be construed to make the foster parent, relative, or preadoptive
8 parent a party to the proceeding solely based on receiving notice and the right to be heard.

9 (b) At any permanency planning review, the court shall consider information from the
10 parent, the juvenile, the guardian, any foster parent, relative or preadoptive parent providing
11 care for the child, the custodian or agency with custody, the guardian ad litem, the foster care
12 ombudsman, and any other person or agency which will aid it in the court's review. The court
13 may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that
14 the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and
15 the most appropriate disposition. At the conclusion of the hearing, if the juvenile is not returned
16 home, the court shall consider the following criteria and make written findings regarding those
17 that are relevant:

- 18 (1) Whether it is possible for the juvenile to be returned home immediately or
19 within the next six months, and if not, why it is not in the juvenile's best
20 interests to return home;
- 21 (2) Where the juvenile's return home is unlikely within six months, whether
22 legal guardianship or custody with a relative or some other suitable person
23 should be established, and if so, the rights and responsibilities which should
24 remain with the parents;
- 25 (3) Where the juvenile's return home is unlikely within six months, whether
26 adoption should be pursued and if so, any barriers to the juvenile's adoption;
- 27 (4) Where the juvenile's return home is unlikely within six months, whether the
28 juvenile should remain in the current placement or be placed in another
29 permanent living arrangement and why;
- 30 (5) Whether the county department of social services has since the initial
31 permanency plan hearing made reasonable efforts to implement the
32 permanent plan for the juvenile;
- 33 (6) Any other criteria the court deems necessary.

34 (c) At the conclusion of the hearing, the judge shall make specific findings as to the
35 best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period
36 of time. The judge may appoint a guardian of the person for the juvenile pursuant to
37 G.S. 7B-600 or make any disposition authorized by G.S. 7B-903 including the authority to
38 place the child in the custody of either parent or any relative found by the court to be suitable
39 and found by the court to be in the best interest of the juvenile. If the juvenile is not returned
40 home, the court shall enter an order consistent with its findings that directs the department of
41 social services to make reasonable efforts to place the juvenile in a timely manner in
42 accordance with the permanent plan, to complete whatever steps are necessary to finalize the
43 permanent placement of the juvenile, and to document such steps in the juvenile's case plan.
44 Any order shall be reduced to writing, signed, and entered no later than 30 days following the
45 completion of the hearing. If the order is not entered within 30 days following completion of
46 the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the
47 first session of court scheduled for the hearing of juvenile matters following the 30-day period
48 to determine and explain the reason for the delay and to obtain any needed clarification as to
49 the contents of the order. The order shall be entered within 10 days of the subsequent hearing
50 required by this subsection.

1 If at any time custody is restored to a parent, or findings are made in accordance with
2 G.S. 7B-906(b), the court shall be relieved of the duty to conduct periodic judicial reviews of
3 the placement.

4 If the court continues the juvenile's placement in the custody or placement responsibility of
5 a county department of social services, the provisions of G.S. 7B-507 shall apply to any order
6 entered under this section.

7 (d) In the case of a juvenile who is in the custody or placement responsibility of a
8 county department of social services, and has been in placement outside the home for 12 of the
9 most recent 22 months; or a court of competent jurisdiction has determined that the parent has
10 abandoned the child; or has committed murder or voluntary manslaughter of another child of
11 the parent; or has aided, abetted, attempted, conspired, or solicited to commit murder or
12 voluntary manslaughter of the child or another child of the parent, the director of the
13 department of social services shall initiate a proceeding to terminate the parental rights of the
14 parent unless the court finds:

- 15 (1) The permanent plan for the juvenile is guardianship or custody with a
16 relative or some other suitable person;
- 17 (2) The court makes specific findings why the filing of a petition for termination
18 of parental rights is not in the best interests of the child; or
- 19 (3) The department of social services has not provided the juvenile's family with
20 such services as the department deems necessary, when reasonable efforts
21 are still required to enable the juvenile's return to a safe home.

22 (e) If a proceeding to terminate the parental rights of the juvenile's parents is necessary
23 in order to perfect the permanent plan for the juvenile, the director of the department of social
24 services shall file a petition to terminate parental rights within 60 calendar days from the date
25 of the permanency planning hearing unless the court makes written findings why the petition
26 cannot be filed within 60 days. If the court makes findings to the contrary, the court shall
27 specify the time frame in which any needed petition to terminate parental rights shall be filed.

28 (f) If the court determines that the juvenile shall be placed in the custody of an
29 individual other than the parents or appoints an individual guardian of the person pursuant to
30 G.S. 7B-600, the court shall verify that the person receiving custody or being appointed as
31 guardian of the juvenile understands the legal significance of the placement or appointment and
32 will have adequate resources to care appropriately for the juvenile."

33 **SECTION 4.** This act applies to Gaston County only.

34 **SECTION 5.** This act is effective when it becomes law and expires July 1, 2015.