

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 399
PROPOSED COMMITTEE SUBSTITUTE H399-PCS30274-TK-7

Short Title: Amend Laws Pertaining to DHHS.-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES REQUESTED BY THE DEPARTMENT OF HEALTH
3 AND HUMAN SERVICES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT,
4 AND DEPENDENCY; MEDICAID; AND PUBLIC HEALTH.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. CHANGES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT, AND**
8 **DEPENDENCY**

9 **SECTION 1.** G.S. 7B-507 reads as rewritten:

10 **"§ 7B-507. Reasonable efforts.**

11 (a) An order placing or continuing the placement of a juvenile in the custody or
12 placement responsibility of a county department of social services, whether an order for
13 continued nonsecure custody, a dispositional order, or a review order:

- 14 (1) Shall contain a finding that the juvenile's continuation in or return to the
15 juvenile's own home would be contrary to the juvenile's best interest;
- 16 (2) Shall contain specific findings as to whether a county department of social
17 services has made reasonable efforts to either prevent the need for placement
18 or eliminate the need for placement of the juvenile, unless the court has
19 previously determined under subsection (b) of this section that such efforts
20 are not required or shall cease;
- 21 (3) Shall contain findings as to whether a county department of social services
22 should continue to make reasonable efforts to prevent or eliminate the need
23 for placement of the juvenile, unless the court has previously determined or
24 determines under subsection (b) of this section that such efforts are not
25 required or shall cease;
- 26 (4) Shall specify that the juvenile's placement and care are the responsibility of
27 the county department of social services and that the department is to
28 provide or arrange for the foster care or other placement of the juvenile.
29 After considering the department's recommendations, the court may order a
30 specific placement the court finds to be in the juvenile's best interest; and
- 31 (5) May provide for services or other efforts aimed at returning the juvenile to a
32 safe home or at achieving another permanent plan for the juvenile.

33 A finding that reasonable efforts have not been made by a county department of social services
34 shall not preclude the entry of an order authorizing the juvenile's placement when the court
35 finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the
36 need for the juvenile's placement were precluded by an immediate threat of harm to the



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1 juvenile, the court may find that the placement of the juvenile in the absence of such efforts
2 was reasonable.

3 (b) In any order placing a juvenile in the custody or placement responsibility of a
4 county department of social services, whether an order for continued nonsecure custody, a
5 dispositional order, or a review order, the court may direct that reasonable efforts to eliminate
6 the need for placement of the juvenile shall not be required or shall cease if the court makes
7 written findings of fact that:

- 8 (1) Such efforts clearly would be futile or would be inconsistent with the
9 juvenile's health, safety, and need for a safe, permanent home within a
10 reasonable period of time;
- 11 (2) A court of competent jurisdiction has determined that the parent has
12 subjected the child to aggravated circumstances as defined in G.S. 7B-101;
- 13 (3) A court of competent jurisdiction has terminated involuntarily the parental
14 rights of the parent to another child of the parent; or
- 15 (4) A court of competent jurisdiction has determined that: the parent has
16 committed murder or voluntary manslaughter of another child of the parent;
17 has aided, abetted, attempted, conspired, or solicited to commit murder or
18 voluntary manslaughter of the child or another child of the parent; ~~or~~ has
19 committed a felony assault resulting in serious bodily injury to the child or
20 another child of the ~~parent~~ parent; has committed sexual abuse against the
21 child or another child of the parent; or has been required to register as a sex
22 offender on any government-administered registry.

23 (c) When the court determines that reunification efforts are not required or shall cease,
24 the court shall order a plan for permanence as soon as possible, after providing each party with
25 a reasonable opportunity to prepare and present evidence. If the court's determination to cease
26 reunification efforts is made in a hearing that was duly and timely noticed as a permanency
27 planning hearing, then the court may immediately proceed to consider all of the criteria
28 contained in G.S. 7B-907(b), make findings of fact, and set forth the best plan of care to
29 achieve a safe, permanent home within a reasonable period of time. If the court's decision to
30 cease reunification efforts arises in any other hearing, the court shall schedule a subsequent
31 hearing within 30 days to address the permanent plan in accordance with G.S. 7B-907. At any
32 hearing at which the court orders that reunification efforts shall cease, the affected parent,
33 guardian, or custodian may give notice to preserve the right to appeal that order in accordance
34 with G.S. 7B-1001. The party giving notice shall be permitted to make a detailed offer of proof
35 as to any evidence that party sought to offer in opposition to cessation of reunification that the
36 court refused to admit.

37 (d) In determining reasonable efforts to be made with respect to a juvenile and in
38 making such reasonable efforts, the juvenile's health and safety shall be the paramount concern.
39 Reasonable efforts to preserve or reunify families may be made concurrently with efforts to
40 plan for the juvenile's adoption, to place the juvenile with a legal guardian, or to place the
41 juvenile in another permanent arrangement."

42 **SECTION 2.** G.S. 7B-909 reads as rewritten:

43 **"§ 7B-909. Review of agency's plan for placement.**

44 (a) The director of social services or the director of the licensed private child-placing
45 agency shall promptly notify the clerk to calendar the case for review of the department's or
46 agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile ~~matters~~
47 in any case where matters. The review shall be held within six months of accepting a
48 relinquishment of a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter
49 48 of the General Statutes unless the juvenile has become the subject of a decree of adoption.

- 50 (1) ~~One parent has surrendered a juvenile for adoption under the provisions of~~
51 ~~Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination~~

1 of parental rights proceedings have not been instituted against the
 2 nonsurrendering parent within six months of the surrender by the other
 3 parent, or

4 (2) Both parents have surrendered a juvenile for adoption under the provisions
 5 of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile
 6 has not been placed for adoption within six months from the date of the more
 7 recent parental surrender.

8 (b) Repealed by 2007-276, s. 6, effective October 1, 2007.

9 (c) Notification of the court under this section shall be by a petition for review. The
 10 petition shall set forth the circumstances necessitating the review under subsection (a) of this
 11 section. The review shall be conducted within 30 days following the filing of the petition for
 12 review unless the court shall otherwise direct. The court shall conduct reviews every six
 13 months until the juvenile is the subject of a decree of adoption. The initial review and all
 14 subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental
 15 rights have been terminated shall not be considered a party to the review unless an appeal of the
 16 order terminating parental rights is pending, and a court has stayed the order pending the
 17 appeal."
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19 PART II. CHANGES TO LAWS PERTAINING TO MEDICAID

20 **SECTION 3.** G.S. 108A-70.5(b)(2) reads as rewritten:

21 "(2) Estate. – All the real and personal property considered assets of the estate
 22 available for the discharge of debt pursuant to G.S. 28A-15-1. For the
 23 purpose of recovery under this statute, including for individuals who have
 24 received benefits under a qualified long-term care partnership policy as
 25 described in G.S. 108A-70.4, "estate" also includes any other real and
 26 personal property and other assets in which the individual had any legal title
 27 or interest at the time of death (to the extent of such interest), including
 28 assets conveyed to a survivor, heir, or assign of the deceased individual
 29 through joint tenancy, tenancy in common, survivorship, life estate, living
 30 trust, or other arrangement."

31 **SECTION 4.** Article 2 of Chapter 28A of the General Statutes is amended by
 32 adding a new section to read as follows:

33 **"§ 28A-2A-24. Medicaid beneficiaries.**

34 Before any probate estate may be closed pursuant to G.S. 108A-70.5, with respect to a
 35 decedent who at the time of death was enrolled in the State's Medicaid program, the personal
 36 representative of the estate shall file with the clerk of the court exercising probate jurisdiction a
 37 release from the Division of Medical Assistance. The release from the Division shall include
 38 one of the following:

- 39 (1) Evidence of the payment of all medical assistance benefits, premiums, or
 40 other such costs due from the estate under law.
 41 (2) A waiver of the State's Medicaid-related claims.
 42 (3) A statement from the Division that no amount is due."

43 **SECTION 5.** Article 8A of Chapter 36C of the General Statutes is amended by
 44 adding a new section to read as follows:

45 **"§ 36C-8-818. Notice of deceased Medicaid beneficiaries.**

46 Any trustee who has a duty or power to pay debts of a deceased trust beneficiary shall give
 47 notice of the death of the trust beneficiary to the Department of Health and Human Services,
 48 Division of Medical Assistance. Such notice shall be provided within 90 days of the death of
 49 the trust beneficiary. The Division of Medical Assistance may make a claim against any trust
 50 deemed an available resource under applicable law."

51 **SECTION 6.** G.S. 108C-3 reads as rewritten:

"§ 108C-3. Medicaid and Health Choice provider screening.

(c) Limited Categorical Risk Provider Types. – The following provider types are hereby designated as "limited" categorical risk:

- (15) Hearing aid dealers.
- (16) Portable X-ray suppliers.
- (17) Religious nonmedical health care institutions.
- (18) Registered dieticians.
- (19) Clearinghouses, billing agents, and alternate payees.

(e) Moderate Categorical Risk Provider Types. – The following provider types are hereby designated as "moderate" categorical risk:

- (13) Revalidating agencies providing private duty nursing, home health, personal care services or in-home care services, or home infusion.
- (14) Local health departments.
- (15) Nonemergency medical transportation.

PART III. CHANGES TO LAWS PERTAINING TO PUBLIC HEALTH

SECTION 7. G.S. 130A-22(b3) reads as rewritten:

"(b3) The Secretary may impose an administrative penalty on a person who violates Article 19A or 19B of this Chapter or any rules adopted pursuant to Article 19A or 19B of this Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed ~~one five thousand dollars (\$1,000)~~(\$5,000) for each day the violation continues for Article 19A of this Chapter. The penalty shall not exceed ~~seven hundred fifty five thousand~~ (\$750.00)(\$5,000) for each day the violation continues for Article 19B of this Chapter. The penalty authorized by this section does not apply to a person who is not required to be certified under Article 19A or 19B."

SECTION 8. G.S. 130A-101(a) reads as rewritten:

"(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within ~~10 five~~ five days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules."

SECTION 9. G.S. 130A-209(a) reads as rewritten:

"§ 130A-209. Incidence reporting of cancer; charge for collection if failure to report.

(a) ~~All~~ By no later than October 1, 2014, all health care facilities and health care providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors shall submit by electronic transmission a report to the central cancer registry each diagnosis of cancer or benign brain or central nervous system tumors in any person who is screened, diagnosed, or treated by the facility or provider. The electronic transmission of these reports shall be in a format prescribed by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, National Program of Cancer Registries. The reports shall be made within six months ~~of~~ after diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report."

PART IV. EFFECTIVE DATE

SECTION 10. This act becomes effective October 1, 2013.