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(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES REQUESTED BY THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES TO LAWS PERTAINING TO CHILD ABUSE, NEGLECT,
AND DEPENDENCY; MEDICAID; AND PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

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

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

"§ 7B-507. Reasonable efforts.

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

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



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1 A finding that reasonable efforts have not been made by a county department of social services
2 shall not preclude the entry of an order authorizing the juvenile's placement when the court
3 finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the
4 need for the juvenile's placement were precluded by an immediate threat of harm to the
5 juvenile, the court may find that the placement of the juvenile in the absence of such efforts
6 was reasonable.

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

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

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

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

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

47 "**§ 7B-909. Review of agency's plan for placement.**

48 (a) The director of social services or the director of the licensed private child-placing
49 agency shall promptly notify the clerk to calendar the case for review of the department's or
50 agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile ~~matters~~
51 ~~in any case where~~ matters. The review shall be held within six months of accepting a

1 relinquishment of a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter
2 48 of the General Statutes unless the juvenile has become the subject of a decree of adoption.

3 ~~(1) One parent has surrendered a juvenile for adoption under the provisions of~~
4 ~~Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination~~
5 ~~of parental rights proceedings have not been instituted against the~~
6 ~~nonsurrendering parent within six months of the surrender by the other~~
7 ~~parent, or~~

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

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

13 (c) Notification of the court under this section shall be by a petition for review. ~~The~~
14 ~~petition shall set forth the circumstances necessitating the review under subsection (a) of this~~
15 ~~section.~~ The review shall be conducted within 30 days following the filing of the petition for
16 review unless the court shall otherwise direct. The court shall conduct reviews every six
17 months until the juvenile is the subject of a decree of adoption. The initial review and all
18 subsequent reviews shall be conducted pursuant to G.S. 7B-908. Any individual whose parental
19 rights have been terminated shall not be considered a party to the review unless an appeal of the
20 order terminating parental rights is pending, and a court has stayed the order pending the
21 appeal."
22

23 **PART II. CHANGES TO LAWS PERTAINING TO MEDICAID**

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

25 "(2) Estate. – All the real and personal property considered assets of the estate
26 available for the discharge of debt pursuant to G.S. 28A-15-1. The
27 Department has all rights available to estate creditors, including the right to
28 qualify as personal representative or collector of an estate. For individuals
29 who have received benefits under a qualified long-term care partnership
30 policy as described in G.S. 108A-70.4, "estate" also includes any other real
31 and personal property and other assets in which the individual had any legal
32 title or interest at the time of death (to the extent of such interest), including
33 assets conveyed to a survivor, heir, or assign of the deceased individual
34 through joint tenancy, tenancy in common, survivorship, life estate, living
35 trust, or other arrangement."

36 **SECTION 4.** G.S. 28A-14-1(b) reads as rewritten:

37 "(b) Prior to filing the proof of notice required by G.S. 28A-14-2, every personal
38 representative and collector shall personally deliver or send by first class mail to the last known
39 address a copy of the notice required by subsection (a) of this section to all persons, firms, and
40 corporations having unsatisfied claims against the decedent who are actually known or can be
41 reasonably ascertained by the personal representative or collector within 75 days after the
42 granting of ~~letters~~ letters and, if at the time of the decedent's death the decedent was receiving
43 medical assistance as defined by G.S. 108A-70.5(b)(1), to the Department of Health and
44 Human Services, Division of Medical Assistance. Provided, however, no notice shall be
45 required to be delivered or mailed with respect to any claim that is recognized as a valid claim
46 by the personal representative or collector."

47 **SECTION 5.** G.S. 28A-19-6(a) reads as rewritten:

48 "(a) After payment of costs and expenses of administration, the claims against the estate
49 of a decedent must be paid in the following order:

50 First class. Claims which by law have a specific lien on property to an amount not
51 exceeding the value of such property.

1 Second class. Funeral expenses to the extent of three thousand five hundred dollars
2 (\$3,500). This limitation shall not include burial place or gravestone. The preferential limitation
3 herein granted shall be construed to be only a limit with respect to preference of payment and
4 shall not be construed to be a limitation on reasonable funeral expenses which may be incurred;
5 nor shall the preferential limitation of payment in the amount of three thousand five hundred
6 dollars (\$3,500) be diminished by any Veterans Administration, social security or other federal
7 governmental benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

8 Third class. Costs associated with gravestones and reasonable costs for the purchase of a
9 suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred
10 dollars (\$1,500). The preferential limitation herein granted shall be construed to be only a limit
11 with respect to preference of payment and shall not be construed to be a limitation on
12 reasonable gravestone or burial place expenses which may be incurred; nor shall the
13 preferential limitation of payment in the amount of one thousand five hundred dollars (\$1,500)
14 be diminished by any Veterans Administration, social security or other federal governmental
15 benefits awarded to the estate of the decedent or to the decedent's beneficiaries.

16 Fourth class. All dues, taxes, and other claims with preference under the laws of the United
17 States.

18 Fifth class. All dues, taxes, and other claims with preference under the laws of the State of
19 North Carolina and its subdivisions.

20 Sixth class. Judgments of any court of competent jurisdiction within the State, docketed and
21 in force, to the extent to which they are a lien on the property of the decedent at the decedent's
22 death. The Department of Health and Human Services is a sixth-class creditor for purposes of
23 determining the order of claims against the estate; provided, however, that judgments in favor
24 of other sixth-class creditors docketed and in force before the Department seeks recovery for
25 medical assistance shall be paid prior to recovery by the Department.

26 Seventh class. Wages due to any employee employed by the decedent, which claim for
27 wages shall not extend to a period of more than 12 months next preceding the death; or if such
28 employee was employed for the year current at the decease, then from the time of such
29 employment; for medical services within the 12 months preceding the decease; for drugs and
30 all other medical supplies necessary for the treatment of such decedent during the last illness of
31 such decedent, said period of last illness not to exceed 12 months.

32 Eighth class. A claim for equitable distribution.

33 Ninth class. All other claims."

34 **SECTION 6.** Article 8A of Chapter 36C of the General Statutes is amended by
35 adding a new section to read as follows:

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

37 If a trust was established by a person who at the time of that person's death was receiving
38 medical assistance, as defined in G.S. 108A-70.5(b)(1), and the trust was revocable at the time
39 of that person's death, then any trustee of that trust who knows of the medical assistance within
40 90 days of the person's death shall provide notice of that person's death to the Department of
41 Health and Human Services, Division of Medical Assistance within 90 days of the person's
42 death."

43 **SECTION 7.** G.S. 108C-3 reads as rewritten:

44 **"§ 108C-3. Medicaid and Health Choice provider screening.**

45 ...

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

48 ...

49 (12) Physician or nonphysician practitioners (including nurse practitioners,
50 CRNAs, physician assistants, physician extenders, occupational therapists,

1 speech/language pathologists, chiropractors, and audiologists), optometrists,
2 dentists and orthodontists, and medical groups or clinics.

3 ...

4
5 (15) Hearing aid dealers.

6 (16) Portable X-ray suppliers.

7 (17) Religious nonmedical health care institutions.

8 (18) Registered dieticians.

9 (19) Clearinghouses, billing agents, and alternate payees.

10 (20) Local health departments.

11 ...

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

14 ...

15 (3) Critical Access Behavioral Health Agencies.

16 ~~(4) Dentists and orthodontists.~~

17 (5) Hospice organizations.

18 ...

19 (13) Revalidating agencies providing private duty nursing, home health, personal
20 care services or in-home care services, or home infusion.

21 (14) Nonemergency medical transportation.

22"

23 24 **PART III. CHANGES TO LAWS PERTAINING TO PUBLIC HEALTH**

25 **SECTION 8.** G.S. 130A-22(b3) reads as rewritten:

26 "(b3) The Secretary may impose an administrative penalty on a person who violates
27 Article 19A or 19B of this Chapter or any rules adopted pursuant to Article 19A or 19B of this
28 Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed
29 ~~one five thousand dollars (\$1,000)~~ (\$5,000) for each day the violation continues for Article 19A
30 of this Chapter. The penalty shall not exceed ~~seven hundred fifty five thousand~~ dollars
31 ~~(\$750.00)~~ (\$5,000) for each day the violation continues for Article 19B of this Chapter. The
32 penalty authorized by this section does not apply to a person who is not required to be certified
33 under Article 19A or 19B."

34 **SECTION 9.** G.S. 130A-101(b) reads as rewritten:

35 "(b) When a birth occurs in a hospital or other medical facility, the person in charge of
36 the facility shall obtain the personal data, prepare the certificate, secure the signatures required
37 by the certificate and file it with the local registrar within ~~five~~ ten days after the birth. The
38 physician or other person in attendance shall provide the medical information required by the
39 certificate."

40 **SECTION 10.** G.S. 130A-209(a) reads as rewritten:

41 "**§ 130A-209. Incidence reporting of cancer; charge for collection if failure to report.**

42 (a) ~~All~~ By no later than October 1, 2014, all health care facilities and health care
43 providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors
44 shall submit by electronic transmission a report to the central cancer registry each diagnosis of
45 cancer or benign brain or central nervous system tumors in any person who is screened,
46 diagnosed, or treated by the facility or provider. The electronic transmission of these reports
47 shall be in a format prescribed by the United States Department of Health and Human Services,
48 Centers for Disease Control and Prevention, National Program of Cancer Registries. The
49 reports shall be made within six months ~~of~~ after diagnosis. Diagnostic, demographic and other
50 information as prescribed by the rules of the Commission shall be included in the report."
51

1 **PART IV. EFFECTIVE DATE**

2 **SECTION 11.** This act becomes effective October 1, 2013.