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HOUSE BILL 362
Committee Substitute Favorable 3/22/17
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PROPOSED SENATE COMMITTEE SUBSTITUTE H362-PCS40586-TV-7

Short Title: Changes to the Juvenile Code.-AB

(Public)

Sponsors:

Referred to:

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE JUVENILE LAWS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 7B-200(a) is amended by adding a new subdivision to read:
5 "(a) The court has exclusive, original jurisdiction over any case involving a juvenile who
6 is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases
7 involving adult defendants alleged to be guilty of abuse or neglect.

8 The court also has exclusive original jurisdiction of the following proceedings:

9 ...

10 (5a) Proceedings to review the placement of a young adult in foster care pursuant
11 to G.S. 108A-48 and G.S. 7B-910.1.

12"

13 **SECTION 2.** G.S. 7B-404 reads as rewritten:
14 "**§ 7B-404. Immediate need for petition when clerk's office is closed.**

15 (a) When the office of the clerk is closed, a magistrate ~~may be authorized by the chief~~
16 ~~district court judge to draw, verify, and issue petitions as follows:~~shall accept for filing the
17 following:

18 (1) ~~When the director of the department of social services requests a A petition~~
19 ~~alleging a juvenile to be abused, neglected, or dependent, or dependent.~~

20 (2) ~~When the director of the department of social services requests a A petition~~
21 ~~alleging the obstruction of or interference with an assessment required by~~
22 ~~G.S. 7B-302.~~

23 (b) The authority of the magistrate under this section is limited to emergency situations
24 when a petition ~~is required in order~~ must be filed to obtain a nonsecure custody order or an
25 order under G.S. 7B-303. Any petition ~~issued~~ accepted for filing under this section shall be
26 delivered to the clerk's office for processing as soon as that office is open for business."

27 **SECTION 3.** G.S. 7B-405 reads as rewritten:
28 "**§ 7B-405. Commencement of action.**

29 An action is commenced by the filing of a petition in the clerk's office when that office is
30 open or by the ~~issuance~~ acceptance of a juvenile petition by a magistrate when the clerk's office
31 is closed, which ~~issuance~~ shall constitute filing."

32 **SECTION 4.** G.S. 7B-407 reads as rewritten:
33 "**§ 7B-407. Service of summons.**



* H 3 6 2 - P C S 4 0 5 8 6 - T V - 7 *

1 The summons shall be served under G.S. 1A-1, Rule ~~4(j)~~ 4, upon the parent, guardian,
2 custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The
3 time for service may be waived in the discretion of the court.

4 If service by publication under G.S. 1A-1, Rule ~~4(j1)~~ 4(j1), or service in a foreign country
5 under Rule 4(j3), is required, the cost of the service by publication shall be advanced by the
6 petitioner and may be charged as court costs as the court may direct."

7 **SECTION 5.** G.S. 7B-505 reads as rewritten:

8 "**§ 7B-505. Placement while in nonsecure custody.**

9 (a) A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure
10 custody with the department of social services or a person designated in the order for temporary
11 residential placement ~~in~~ in any of the following:

12 (1) A licensed foster home or a home otherwise authorized by law to provide
13 such ~~care~~; or care.

14 (2) A facility operated by the department of social ~~services~~; or services.

15 (3) Any other home or facility, including ~~a relative's home~~ the home of a parent,
16 relative, nonrelative kin, or other person with legal custody of a sibling of
17 the juvenile, approved by the court and designated in the order.

18 (b) ~~The court shall order the department of social services to make diligent efforts to~~
19 ~~notify relatives and any custodial parents of the juvenile's siblings that the juvenile is in~~
20 ~~nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B 506, unless the~~
21 ~~court finds such notification would be contrary to the best interests of the juvenile.~~ The court
22 shall order the department of social services to make diligent efforts to notify relatives and
23 other persons with legal custody of a sibling of the juvenile that the juvenile is in nonsecure
24 custody and of any hearings scheduled to occur pursuant to G.S. 7B 506, unless the court finds
25 the notification would be contrary to the best interests of the juvenile. In placing a juvenile in
26 nonsecure custody under this section, the court shall first consider whether a relative of the
27 juvenile is willing and able to provide proper care and supervision of the juvenile in a safe
28 home. If the court finds that the relative is willing and able to provide proper care and
29 supervision in a safe home, then the court shall order placement of the juvenile with the relative
30 unless the court finds that placement with the relative would be contrary to the best interests of
31 the juvenile.

32 "...."

33 **SECTION 6.** G.S. 7B-505.1 reads as rewritten:

34 "**§ 7B-505.1. Juvenile Consent for medical care for a juvenile placed in nonsecure custody**
35 **of a department of social services.**

36 (a) Unless the court orders otherwise, when a juvenile is placed in the nonsecure
37 custody of a county department of social services, the director may arrange for, provide, or
38 consent to any of the following:

39 (1) Routine medical and dental care or ~~treatment~~ treatment, including, but not
40 limited to, treatment for common pediatric illnesses and injuries that require
41 prompt intervention.

42 "...."

43 **SECTION 7.** G.S. 7B-506 reads as rewritten:

44 "**§ 7B-506. Hearing to determine need for continued nonsecure custody.**

45 "..."

46 (b) At a hearing to determine the need for continued custody, the court shall receive
47 testimony and shall allow the ~~guardian ad litem, or juvenile, and the juvenile's parent, guardian,~~
48 ~~eustodian, or caretaker parties~~ the right to introduce evidence, to be heard in the person's own
49 behalf, and to examine witnesses. The petitioner shall bear the burden at every stage of the
50 proceedings to provide clear and convincing evidence that the juvenile's placement in custody
51 is necessary. The court shall not be bound by the usual rules of evidence at such hearings.

1 ...
2 (g1) The provisions of G.S. 7B-905.1 shall apply to determine visitation.
3 "

4 **SECTION 8.** G.S. 7B-906.1 reads as rewritten:

5 "**§ 7B-906.1. Review and permanency planning hearings.**

6 (a) ~~In any case where custody is removed from a parent, guardian, or custodian, the~~ The
7 court shall conduct a review hearing within 90 days from the date of the initial dispositional
8 hearing held pursuant to G.S. 7B-901 and shall conduct a review hearing within six months
9 thereafter. Within 12 months of the date of the initial order removing custody, there shall be a
10 review hearing designated as a permanency planning hearing. Review hearings after the initial
11 permanency planning hearing shall be designated as subsequent permanency planning hearings.
12 ~~The subsequent~~ Subsequent permanency planning hearings shall be held at least every six
13 months thereafter or earlier as set by the court to review the progress made in finalizing the
14 permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.

15 ...
16 (d) At each hearing, the court shall consider the following criteria and make written
17 findings regarding those that are relevant:

18 ...
19 (3) Whether efforts to reunite the juvenile with either parent clearly would be
20 unsuccessful or inconsistent with the juvenile's health or safety and need for
21 a safe, permanent home within a reasonable period of time. The court shall
22 consider efforts to reunite regardless of whether the juvenile resided with the
23 parent, guardian, or custodian at the time of removal. If the court determines
24 efforts would be unsuccessful or inconsistent, the court shall ~~consider other~~
25 permanent plans of care for the juvenile pursuant to G.S. 7B-906.2, schedule
26 a permanency planning hearing within 30 days to address the permanent
27 plans in accordance with this section and G.S. 7B-906.2, unless the
28 determination is made at a permanency planning hearing.

29 ...
30 (o) This section does not apply to post termination of parental rights' placement
31 reviews."

32 **SECTION 9.** G.S. 7B-908 reads as rewritten:

33 "**§ 7B-908. Post termination of parental rights' placement court review.**

34 (a) The purpose of each placement review is to ensure that every reasonable effort is
35 being made to provide for ~~a permanent placement plan~~ plans for the juvenile who has been
36 placed in the custody of a county director or licensed child-placing agency, which ~~is~~ are
37 consistent with the juvenile's best interests. At each review hearing the court may consider
38 information from the department of social services, the licensed child-placing agency, the
39 guardian ad litem, the child, the person providing care for the child, and any other person or
40 agency the court determines is likely to aid in the review. The court may consider any evidence,
41 including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be
42 relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate
43 disposition.

44 (b) The court shall conduct a placement review not later than six months from the date
45 of the termination hearing when parental rights have been terminated by a petition or motion
46 brought by any person or agency designated in ~~G.S. 7B-1103(2)~~ G.S. 7B-1103(a)(2) through
47 ~~(5)-(6), or one parent's parental rights have been terminated by court order and the other~~
48 parent's parental rights have been relinquished under Chapter 48 of the General Statutes, and a
49 county director or licensed child-placing agency has custody of the juvenile. The court shall
50 conduct reviews every six months thereafter until the juvenile is the subject of a decree of
51 adoption:

1 ...
2 (c) The court shall consider at least the following in its review and make written
3 findings regarding the following that are relevant:

4 (1) The adequacy of the ~~plan~~ permanency plans developed by the county
5 department of social services or a licensed child-placing agency for a
6 permanent placement ~~relative to~~ in the juvenile's best interests and the efforts
7 of the department or agency to implement ~~such plan~~ the plans.

8 (2) Whether the juvenile has been listed for adoptive placement with ~~the North~~
9 ~~Carolina Adoption Resource Exchange, the North Carolina Photo Adoption~~
10 ~~Listing Service (PALS), or any other specialized adoption agency.~~ NC Kids
11 Adoption and Foster Care Network or any other child-specific recruitment
12 program or whether there is an exemption to listing that the court finds is in
13 the child's best interest.

14 (3) The efforts previously made by the department or agency to find a
15 permanent ~~home~~ placement for the juvenile.

16 (4) Whether the current placement is in the juvenile's best interest.

17 (d) The court, after making findings of fact, shall ~~do one of the following:~~ adopt
18 concurrent permanent plans and identify the primary and secondary plan in accordance with
19 G.S. 7B-906.2(a)(2) through (6). The court may specify efforts that are necessary to accomplish
20 a permanent placement that is in the best interests of the juvenile.

21 (1) ~~Affirm the county department's or child-placing agency's plans.~~

22 (2) ~~If~~

23 (d1) If a juvenile is not placed with prospective adoptive parents as selected in
24 G.S. 7B-1112.1, ~~order a placement or different plan the court finds to be in the juvenile's best~~
25 ~~interest after considering the department's recommendations.~~ the court may order a placement
26 that the court finds to be in the juvenile's best interest after considering the department's
27 recommendations.

28 ~~In either case, the court may require specific additional steps that are necessary to accomplish a~~
29 ~~permanent placement that is in the best interests of the juvenile.~~

30"

31 **SECTION 10.** G.S. 7B-910.1(d) read as rewritten:

32 "(d) The clerk shall give written notice of the initial and any subsequent review hearings
33 to the young adult ~~and in~~ foster care and the director of social services at least 15 days prior to
34 the date of the hearing."

35 **SECTION 11.** G.S. 7B-1106(a) reads as rewritten:

36 "(a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court shall
37 cause a summons to be issued. The summons shall be directed to the following persons or
38 agency, not otherwise a party petitioner, who shall be named as respondents:

39 (1) The parents of the juvenile. However, a summons does not need to be
40 directed to or served upon any parent who, under Chapter 48 of the General
41 Statutes, has irrevocably relinquished the juvenile to a county department of
42 social services or licensed child-placing agency or to any parent who has
43 consented to the adoption of the juvenile by the petitioner.

44 (2) Any person who has been judicially appointed as guardian of the person of
45 the juvenile.

46 (3) The custodian of the juvenile appointed by a court of competent jurisdiction.

47 (4) Any county department of social services or licensed child-placing agency to
48 whom a juvenile has been released by one parent pursuant to Part 7 of
49 Article 3 of Chapter 48 of the General Statutes or any county department of
50 social services to whom placement responsibility for the child has been
51 given by a court of competent jurisdiction.

1 (5) Repealed by Session Laws 2009-38, s. 3, effective May 27, 2009.

2 The summons shall notify the respondents to file a written answer within 30 days after
3 service of the summons and petition. Service of the summons shall be completed as provided
4 under the procedures established by G.S. 1A-1, Rule 4(j). ~~But the 4. Prior to service by~~
5 publication under G.S. 1A-1, the court shall make findings of fact that a respondent cannot
6 otherwise be served despite diligent efforts made by petitioner for personal service. The court
7 shall approve the form of the notice before it is published. The parent of the juvenile shall not
8 be deemed to be under a disability even though the parent is a minor."

9 **SECTION 12.** G.S. 7B-2503(1)c. reads as rewritten:

10 "c. If the director of the department of social services has received notice
11 and an opportunity to be heard, place the juvenile in the custody of a
12 department of social services in the county of the juvenile's
13 residence, or in the case of a juvenile who has legal residence outside
14 the State, in the physical custody of a department of social services in
15 the county where the juvenile is found so that agency may return the
16 juvenile to the responsible authorities in the juvenile's home state. An
17 order placing a juvenile in the custody or placement responsibility of
18 a county department of social services shall contain a finding that the
19 juvenile's continuation in the juvenile's own home would be contrary
20 to the juvenile's best interest. This placement shall be reviewed in
21 accordance with G.S. 7B-906.1. ~~The director may, unless otherwise~~
22 ~~ordered by the judge, arrange for, provide, or consent to, needed~~
23 ~~routine or emergency medical or surgical care or treatment. In the~~
24 ~~ease where the parent is unknown, unavailable, or unable to act on~~
25 ~~behalf of the juvenile or juveniles, the director may, unless otherwise~~
26 ~~ordered by the judge, arrange for, provide or consent to any~~
27 ~~psychiatric, psychological, educational, or other remedial evaluations~~
28 ~~or treatment for the juvenile placed by a judge or the judge's designee~~
29 ~~in the custody or physical custody of a county department of social~~
30 ~~services under the authority of this or any other Chapter of the~~
31 ~~General Statutes. Prior to exercising this authority, the director shall~~
32 ~~make reasonable efforts to obtain consent from a parent, guardian, or~~
33 ~~eustodian of the affected juvenile. If the director cannot obtain~~
34 ~~consent, the director shall promptly notify the parent, guardian, or~~
35 ~~eustodian that care or treatment has been provided and shall give the~~
36 ~~parent, guardian, or custodian frequent status reports on the~~
37 ~~circumstances of the juvenile. Upon request of a parent, guardian, or~~
38 ~~eustodian of the affected juvenile, the results or records of the~~
39 ~~aforementioned evaluations, findings, or treatment shall be made~~
40 ~~available to the parent, guardian, or custodian by the director unless~~
41 ~~prohibited by G.S. 122C-53(d)."~~

42 **SECTION 13.** G.S. 7B-2506(1)c. reads as rewritten:

43 "c. If the director of the county department of social services has
44 received notice and an opportunity to be heard, place the juvenile in
45 the custody of the department of social services in the county of ~~his~~
46 the juvenile's residence, or in the case of a juvenile who has legal
47 residence outside the State, in the physical custody of a department
48 of social services in the county where the juvenile is found so that
49 agency may return the juvenile to the responsible authorities in the
50 juvenile's home state. An order placing a juvenile in the custody or
51 placement responsibility of a county department of social services

1 shall contain a finding that the juvenile's continuation in the
2 juvenile's own home would be contrary to the juvenile's best interest.
3 This placement shall be reviewed in accordance with G.S. 7B-906.1.
4 ~~The director may, unless otherwise ordered by the judge, arrange for,
5 provide, or consent to, needed routine or emergency medical or
6 surgical care or treatment. In the case where the parent is unknown,
7 unavailable, or unable to act on behalf of the juvenile or juveniles,
8 the director may, unless otherwise ordered by the judge, arrange for,
9 provide, or consent to any psychiatric, psychological, educational, or
10 other remedial evaluations or treatment for the juvenile placed by a
11 judge or his designee in the custody or physical custody of a county
12 department of social services under the authority of this or any other
13 Chapter of the General Statutes. Prior to exercising this authority, the
14 director shall make reasonable efforts to obtain consent from a
15 parent, guardian, or custodian of the affected juvenile. If the director
16 cannot obtain consent, the director shall promptly notify the parent,
17 guardian, or custodian that care or treatment has been provided and
18 shall give the parent, guardian, or custodian frequent status reports on
19 the circumstances of the juvenile. Upon request of a parent, guardian,
20 or custodian of the affected juvenile, the results or records of the
21 aforementioned evaluations, findings, or treatment shall be made
22 available to the parent, guardian, or custodian by the director unless
23 prohibited by G.S. 122C-53(d)."~~

24 **SECTION 14.** G.S. 7B-3600 reads as rewritten:

25 **"§ 7B-3600. Judicial authorization of emergency treatment; procedure.**

26 A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the General
27 Statutes, whose physician is barred from rendering necessary treatment by reason of parental
28 refusal to consent to treatment, may receive treatment with court authorization under the
29 following procedure:

30 ...

31 The court's authorization for treatment under this Article shall have the same effect as
32 parental consent for treatment.

33 Following the court's authorization for treatment and after giving notice to the juvenile's
34 parent, guardian, or custodian the court shall conduct a hearing in order to provide for payment
35 for the treatment rendered. The court may order the parent or other responsible parties to pay
36 the cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the cost
37 shall be a charge upon the county when so ordered.

38 This Article shall operate as a remedy in addition to the provisions in ~~G.S. 7B-903,
39 7B-2503, and 7B-2506.~~G.S. 7B-505.1 and G.S. 7B-903.1."

40 **SECTION 15.** This act becomes effective October 1, 2017.