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SESSION 2021

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D

HOUSE BILL 132  
PROPOSED COMMITTEE SUBSTITUTE H132-PCS40178-CH-1

Short Title: Juvenile Code Rev's/CIP Recommendations.-AB

(Public)

Sponsors:

Referred to:

February 24, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE REVISIONS TO THE JUVENILE CODE PURSUANT TO  
3 RECOMMENDATIONS BY THE COURT IMPROVEMENT PROGRAM.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 7B-101. Definitions.**

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

9 ...

10 (18) Reasonable efforts. – The diligent use of preventive or reunification services  
11 by a department of social services when a juvenile's remaining at home or  
12 returning home is consistent with achieving a safe, permanent home for the  
13 juvenile within a reasonable period of time. If a court of competent jurisdiction  
14 determines that the juvenile is not to be returned home, then reasonable efforts  
15 means the diligent and timely use of permanency planning services by a  
16 department of social services to develop and implement a permanent plan for  
17 the juvenile.

18 (18a) Relative. – An individual directly related to the juvenile by blood, marriage,  
19 or adoption, including a grandparent, sibling, aunt, or uncle.

20 ~~(18a)~~(18b) Responsible individual. – A parent, guardian, custodian, caretaker, or  
21 individual responsible for subjecting a juvenile to human trafficking under  
22 G.S. 14-43.11, 14-43.12, or 14-43.13, who abuses or seriously neglects a  
23 juvenile.

24 ~~(18b)~~(18c) Return home or reunification. – Placement of the juvenile in the home of either  
25 parent or placement of the juvenile in the home of a guardian or custodian  
26 from whose home the child was removed by court order.

27 ...."

28 **SECTION 1.(b)** G.S. 7B-1001 reads as rewritten:

29 "**§ 7B-1001. Right to appeal.**

30 (a) In a juvenile matter under this Subchapter, only the following final orders may be  
31 appealed directly to the Court of Appeals:

32 ...

33 (5) An order under G.S. 7B-906.2(b) eliminating reunification, as defined by  
34 ~~G.S. 7B-101(18b)~~, G.S. 7B-101(18c), as a permanent plan by either of the  
35 following:

36 a. A parent who is a party and:



\* H 1 3 2 - P C S 4 0 1 7 8 - C H - 1 \*

1. Has preserved the right to appeal the order in writing within 30 days after entry and service of the order.
2. A termination of parental rights petition or motion has not been filed within 65 days of entry and service of the order.
3. A notice of appeal of the order eliminating reunification is filed within 30 days after the expiration of the 65 days.

...."

**SECTION 2.** G.S. 7B-302(a1) reads as rewritten:

"(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except under the following circumstances:

...

- (2) The information may be examined upon request by the juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated. Emancipated is authorized to review the record and request all or part of the record unless prohibited by federal law. The department shall provide electronic or written copies of the requested information within a reasonable period of time.

...."

**SECTION 3.** G.S. 7B-505 is amended by adding a new subsection to read:

"(a1) If juvenile siblings are removed from the home and placed in the nonsecure custody of a county department of social services, the director shall make reasonable efforts to place the juvenile siblings in the same home. The director is not required to make reasonable efforts under this subsection if the director documents that placing the juvenile siblings would be contrary to the safety or well-being of any of the juvenile siblings. If, after making reasonable efforts, the director is unable to place the juvenile siblings in the same home, the director shall make reasonable efforts to provide frequent sibling visitation and ongoing interaction between the juvenile siblings, unless the director documents that frequent visitation or other ongoing interaction between the juvenile siblings would be contrary to the safety or well-being of any of the juvenile siblings."

**SECTION 4.** G.S. 7B-602 reads as rewritten:

**"§ 7B-602. Parent's right to counsel; guardian ad litem.**

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition in accordance with rules adopted by the Office of Indigent Defense ~~Services and Services~~, shall indicate the appointment on the juvenile summons or attached ~~notice~~-notice, and shall provide a copy of the petition and summons or notice to the attorney. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent.

The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

...."

**SECTION 5.** G.S. 7B-901(d) reads as rewritten:

1       "(d) When the court determines that reunification efforts are not required, the court shall  
2 order a ~~concurrent~~ permanent ~~plan~~ plans as soon as possible, after providing each party with a  
3 reasonable opportunity to prepare and present evidence. The court shall schedule a permanency  
4 planning hearing within 30 days to address the permanent plans in accordance with  
5 G.S. 7B-906.1 and G.S. 7B-906.2."

6       **SECTION 6.** G.S. 7B-903.1 is amended by adding a new subsection to read:

7       "(c1) If juvenile siblings are removed from the home and placed in the nonsecure custody  
8 of a county department of social services, the director shall make reasonable efforts to place the  
9 juvenile siblings in the same home. The director is not required to make reasonable efforts under  
10 this subsection if the director documents that placing the juvenile siblings would be contrary to  
11 the safety or well-being of any of the juvenile siblings. If, after making reasonable efforts, the  
12 director is unable to place the juvenile siblings in the same home, the director shall make  
13 reasonable efforts to provide frequent sibling visitation and ongoing interaction between the  
14 juvenile siblings, unless the director documents that frequent visitation or other ongoing  
15 interaction between the juvenile siblings would be contrary to the safety or well-being of any of  
16 the juvenile siblings."

17       **SECTION 7.** G.S. 7B-904 reads as rewritten:

18       "**§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or**  
19       **dependent.**

20       ...

21       (b) At the dispositional hearing or a subsequent hearing if the court finds that it is in the  
22 best interests of the juvenile for the parent, guardian, custodian, stepparent, adult member of the  
23 juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care to be directly involved in  
24 the juvenile's treatment, the court may order the parent, guardian, custodian, stepparent, adult  
25 member of the juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care to  
26 participate in medical, psychiatric, psychological, or other treatment of the juvenile. The cost of  
27 the treatment shall be paid pursuant to G.S. 7B-903.

28       (c) At the dispositional hearing or a subsequent hearing the court may determine whether  
29 the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult  
30 member of the juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care undergo  
31 psychiatric, psychological, or other treatment or counseling directed toward remediating or  
32 remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to  
33 the court's decision to remove custody of the juvenile from the parent, guardian, custodian,  
34 stepparent, adult member of the juvenile's household, or adult ~~relative~~-entrusted with the  
35 juvenile's care. If the court finds that the best interests of the juvenile require the parent, guardian,  
36 custodian, stepparent, adult member of the juvenile's household, or adult ~~relative~~-entrusted with  
37 the juvenile's care undergo treatment, it may order that individual to comply with a plan of  
38 treatment approved by the court or condition legal custody or physical placement of the juvenile  
39 with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or  
40 adult ~~relative~~-entrusted with the juvenile's care upon that individual's compliance with the plan  
41 of treatment. The court may order the parent, guardian, custodian, stepparent, adult member of  
42 the juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care to pay the cost of  
43 treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal  
44 custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent,  
45 adult member of the juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care upon  
46 compliance with a plan of treatment, the court may charge the cost of the treatment to the county  
47 of the juvenile's residence if the court finds the parent, guardian, custodian, stepparent, adult  
48 member of the juvenile's household, or adult ~~relative~~-entrusted with the juvenile's care is unable  
49 to pay the cost of the treatment. In all other cases, if the court finds the parent, guardian,  
50 custodian, stepparent, adult member of the juvenile's household, or adult ~~relative~~-entrusted with  
51 the juvenile's care is unable to pay the cost of the treatment ordered pursuant to this subsection,

1 the court may order that individual to receive treatment currently available from the area mental  
2 health program that serves the parent's catchment area.

3 (c1) If the court has ordered an individual to comply with a plan of treatment for substance  
4 use disorder, including opioid dependency, that individual shall not be in violation of the terms  
5 or conditions of that part of the court's order if he or she is compliant with medication-assisted  
6 treatment. For the purposes of this subsection, "medication-assisted treatment" means the use of  
7 pharmacological medications administered, dispensed, and prescribed in a Substance Abuse and  
8 Mental Health Services Administration (SAMHSA) accredited and certified opioid treatment  
9 program (OTP) or by a certified practitioner licensed in this State to practice medicine, in  
10 combination with counseling and behavioral therapies, to provide a whole patient approach to  
11 the treatment of substance use disorders.

12 ...."

13 **SECTION 8.** G.S. 7B-905(b) is repealed.

14 **SECTION 9.** G.S. 7B-905.1(d) reads as rewritten:

15 "(d) If the court waives permanency planning hearings and retains jurisdiction, all parties  
16 shall be informed of the right to file a motion for review of any visitation plan entered pursuant  
17 to this section. Upon motion of any party and after proper notice and a hearing, the court may  
18 establish, modify, or enforce a visitation plan that is in the juvenile's best interest. Prior to or at  
19 the hearing, the court may order the department and guardian ad litem to investigate and make  
20 written recommendations as to appropriate visitation and give testimony concerning its  
21 recommendations. For resolution of issues related to visitation, the court may order the parents,  
22 guardian, or custodian to participate in custody mediation where there is a program established  
23 pursuant to G.S. 7A-494. In referring a case to custody mediation, the court shall specify the  
24 issue or issues for mediation, including, but not limited to, whether or not visitation shall be  
25 supervised and whether overnight visitation may occur. Custody mediation shall not permit the  
26 participants to consent to a change in custody. A copy of any agreement reached in custody  
27 mediation shall be provided to all parties and counsel and shall be approved by the court. The  
28 provisions of G.S. 50-13.1(d) through (f) apply to this section."

29 **SECTION 10.** G.S. 7B-906.1 reads as rewritten:

30 "**§ 7B-906.1. Review and permanency planning hearings.**

31 ...

32 (n) Notwithstanding other provisions of this Article, the court may waive the holding of  
33 hearings required by this section, may require written reports to the court by the agency or person  
34 holding custody in lieu of ~~review-permanency planning~~ hearings, or order that ~~review~~  
35 ~~permanency planning~~ hearings be held less often than every six months if the court finds by clear,  
36 cogent, and convincing evidence each of the following:

- 37 (1) The juvenile has resided in the placement for a period of at least one year or  
38 the juvenile has resided in the placement for at least six consecutive months  
39 and the court enters a consent order pursuant to G.S. 7B-801(b1).
- 40 (2) The placement is stable and continuation of the placement is in the juvenile's  
41 best interests.
- 42 (3) Neither the juvenile's best interests nor the rights of any party require that  
43 ~~review-permanency planning~~ hearings be held every six months.
- 44 (4) All parties are aware that the matter may be brought before the court for  
45 review at any time by the filing of a motion for review or on the court's own  
46 motion.
- 47 (5) The court order has designated the relative or other suitable person as the  
48 juvenile's permanent custodian or guardian of the person.

49 The court may not waive or refuse to conduct a ~~review~~-hearing if a party files a motion  
50 seeking the ~~review~~-hearing. However, if a guardian of the person has been appointed for the  
51 juvenile and the court has also made findings in accordance with subsection (n) of this section

1 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance  
2 with G.S. 7B-600(b).

3 (o) ~~This Permanency planning hearings under this section does not apply to shall be~~  
4 ~~replaced by post termination of parental rights' placement reviews-review hearings when required~~  
5 ~~by G.S. 7B-908."~~

6 **SECTION 11.** G.S. 7B-906.2(b) reads as rewritten:

7 "(b) At any permanency planning hearing, the court shall adopt concurrent permanent  
8 plans and shall identify the primary plan and secondary plan. Reunification shall be a primary or  
9 secondary plan unless the court made findings under G.S. 7B-901(c) or G.S. 7B-906.1(d)(3), the  
10 permanent plan is or has been achieved in accordance with subsection (a1) of this section, or the  
11 court makes written findings that reunification efforts clearly would be unsuccessful or would be  
12 inconsistent with the juvenile's health or safety. The finding that reunification efforts clearly  
13 would be unsuccessful or inconsistent with the juvenile's health or safety may be made at any  
14 permanency planning ~~hearing~~-hearing, and if made, shall eliminate reunification as a plan.  
15 Unless permanence has been achieved, the court shall order the county department of social  
16 services to make efforts toward finalizing the primary and secondary permanent plans and may  
17 specify efforts that are reasonable to timely achieve permanence for the juvenile."

18 **SECTION 12.** G.S. 7B-908 reads as rewritten:

19 **"§ 7B-908. Post termination of parental rights' placement court review.**

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

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

37 (1) No more than 30 days and no less than 15 days prior to each review, the clerk  
38 shall give notice of the review to the juvenile if the juvenile is at least 12 years  
39 of age, the legal custodian or guardian of the juvenile, the person providing  
40 care for the juvenile, the guardian ad litem, if any, and any other person or  
41 agency the court may specify. The department of social services shall either  
42 provide to the clerk the name and address of the person providing care for the  
43 child for notice under this subsection or file written documentation with the  
44 clerk that the child's current care provider was sent notice of hearing. Only the  
45 juvenile, the legal custodian or guardian of the juvenile, the person providing  
46 care for the juvenile, and the guardian ad litem may participate in the review  
47 hearings, except as otherwise directed by the court. Nothing in this subdivision  
48 shall be construed to make the person a party to the proceeding solely based  
49 on receiving notice and the right to be heard. Any individual whose parental  
50 rights have been terminated or has executed a relinquishment that is no longer  
51 revocable shall not be considered a party to the proceeding unless an appeal

1 of the order terminating parental rights is pending, and a court has stayed the  
2 order pending the appeal.

3 ...

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

8 (1) Affirm the county department's or child placing agency's plan.

9 (2) Order a different plan designated in G.S. 7B-906.2(a).

10 (d1) The court may (i) order concurrent permanent plans if the court finds concurrent  
11 permanency planning to be in the best interests of the juvenile and (ii) specify efforts that are  
12 necessary to accomplish a permanent plan designated in subdivisions (1) or (2) of subsection (d)  
13 of this section that is in the best interests of the juvenile. If a juvenile is not placed with  
14 prospective adoptive parents as selected in G.S. 7B-1112.1, the court may order a placement that  
15 the court finds to be in the juvenile's best interest after considering the department's  
16 recommendations.

17 ...."

18 **SECTION 13.** G.S. 7B-910.1 is amended by adding a new subsection to read:

19 "(e) When the young adult elects to terminate the agreement, the agreement may be  
20 terminated without a return to court. When the department elects to terminate the agreement over  
21 the objection of the young adult, the department shall file a motion to bring the matter back before  
22 the court for resolution."

23 **SECTION 14.** G.S. 7B-912(b) reads as rewritten:

24 "(b) At or before the last scheduled permanency planning hearing, but at least 90 days  
25 before a juvenile attains 18 years of age, hearing immediately following the juvenile's  
26 seventeenth birthday and at each permanency planning hearing thereafter, the court shall (i)  
27 inquire as to whether the juvenile has a copy of the juvenile's birth certificate, Social Security  
28 card, health insurance information, drivers license or other identification card, and any  
29 educational or medical records the juvenile requests-requests, and information about how the  
30 juvenile may participate in the foster care 18-21 program authorized by G.S. 108A-48, and (ii)  
31 determine the person or entity that should assist the juvenile in obtaining these documents before  
32 the juvenile attains the age of 18 years."

33 **SECTION 15.** G.S. 7B-912 is amended by adding a new subsection to read:

34 "(b1) The department shall include in its report to the court at every hearing after the  
35 juvenile's seventeenth birthday all of the following information:

36 (1) The department's efforts to identify and secure viable placement options for  
37 when the juvenile attains the age of 18 years.

38 (2) A list of appropriate adults who can serve as resources for the juvenile when  
39 the juvenile attains the age of 18 years.

40 (3) Contact information of the person responsible for overseeing voluntary foster  
41 care placements with young adults in the county department of social services  
42 with custody or placement responsibility of the juvenile and in the county  
43 department of social services in the county where the juvenile plans to reside  
44 at the age of 18 years.

45 (4) If appropriate, whether the juvenile has information about how he or she may  
46 maintain contact with his or her siblings, parents, or relatives when the  
47 juvenile attains the age of 17 years.

48 (5) Whether the department has provided the juvenile with a point of contact to  
49 secure Medicaid and maintain physical and mental health services for which  
50 the juvenile will be eligible when the juvenile attains the age of 18 years.

1           (6) Whether the department has provided the juvenile with information about  
2           educational, vocational, or job plans for when the juvenile attains the age of  
3           18 years."

4           **SECTION 16.** G.S. 7B-1000 reads as rewritten:

5       "**§ 7B-1000. Authority to ~~modify or vacate.~~ modify.**

6           (a) Upon motion in the cause or petition, and after notice, the court may conduct a review  
7           modification hearing to determine whether the order of the court is in the best interests of the  
8           juvenile, and the juvenile. The court may modify or vacate the order in light of changes in  
9           circumstances or the needs of the juvenile. Notwithstanding the provision of this subsection, if a  
10           guardian of the person has been appointed for the juvenile and the court has also made findings  
11           that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance  
12           with G.S. 7B-600(b) juvenile and address the issues raised in the motion that do not require a  
13           review or permanency planning hearing pursuant to G.S. 7B-906.1.

14           ...

15           (c) When a motion is filed to conduct a modification hearing under this section and the  
16           guardian ad litem appointed through G.S. 7B-601 has been previously released, the court shall  
17           reappoint a guardian ad litem and an attorney advocate. The clerk shall provide the motion and  
18           any notice of hearing to the guardian ad litem and the attorney advocate. The hearing on the  
19           motion shall not take place until the guardian ad litem and the attorney advocate have been  
20           reappointed.

21           (d) When a motion is filed to conduct a modification hearing under this section and  
22           counsel for respondent parents appointed through G.S. 7B-602 has been released, the court shall  
23           appoint provisional counsel in accordance with G.S. 7B-602.

24           (e) The order shall be reduced to writing, signed, and entered no later than 30 days  
25           following the completion of the hearing. If the order is not entered within 30 days following  
26           completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent  
27           hearing at the first session of court scheduled for the hearing of juvenile matters following the  
28           30-day period to determine and explain the reason for the delay and to obtain any needed  
29           clarification as to the contents of the order. The order shall be entered within 10 days of the  
30           subsequent hearing required by this subsection."

31           **SECTION 17.** G.S. 7B-1101.1(a) reads as rewritten:

32           (a) The parent has the right to counsel, and to appointed counsel in cases of indigency,  
33           unless the parent waives the right. The fees of appointed counsel shall be borne by the Office of  
34           Indigent Defense Services. When a petition is filed, unless the parent is already represented by  
35           counsel, the clerk shall appoint provisional counsel for each respondent parent named in the  
36           petition in accordance with rules adopted by the Office of Indigent Defense ~~Services and~~  
37           Services, shall indicate the appointment on the juvenile summons-~~summons~~, and shall provide a  
38           copy of the summons and petition to the attorney. At the first hearing after service upon the  
39           respondent parent, the court shall dismiss the provisional counsel if the respondent parent:

- 40           (1) Does not appear at the hearing;  
41           (2) Does not qualify for court-appointed counsel;  
42           (3) Has retained counsel; or  
43           (4) Waives the right to counsel.

44           The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this  
45           subsection are not applicable to the respondent parent. The court may reconsider a parent's  
46           eligibility and desire for appointed counsel at any stage of the proceeding."

47           **SECTION 18.** G.S. 7B-2901(b) reads as rewritten:

48           (b) The Director of the Department of Social Services shall maintain a record of the cases  
49           of juveniles under protective custody by the Department or under placement by the court, which  
50           shall include family background information; reports of social, medical, psychiatric, or  
51           psychological information concerning a juvenile or the juvenile's family; interviews with the

1 juvenile's family; or other information which the court finds should be protected from public  
2 inspection in the best interests of the juvenile. The records maintained pursuant to this subsection  
3 may be examined only in the following circumstances:

- 4 (1) The juvenile's guardian ad litem or the juvenile, including a juvenile who has  
5 reached age 18 or been ~~emancipated, may examine the records.~~emancipated,  
6 is authorized to review the record and request all or part of the record unless  
7 prohibited by federal law. The department shall provide electronic or written  
8 copies of the requested information within a reasonable period of time.

9 ...."

10 **SECTION 19.** G.S. 7B-3807 is repealed.

11 **SECTION 20.** This act becomes effective October 1, 2021.