

**1997**

**HOUSE  
HUMAN RESOURCES –  
FAMILIES**

**MINUTES**

HOUSE HUMAN RESOURCES SUBCOMMITTEE ON FAMILIES

1997 SESSION

VOL. 1 OF 1

Representative William M. Ives , Chairman

# HOUSE HUMAN RESOURCES SUBCOMMITTEE ON FAMILIES

## Membership

1997 - 1998



William (Bill) Ives  
Chairman



Alma S. Adams



Joanne W. Bowie



Ruth M. Easterling



Theresa H. Esposito



Martin L. Nesbitt, Jr.



Verla C. Insko



Mary E. McAllister



Cynthia B. Watson



## HUMAN RESOURCES/Subcommittee on Families

(Name of Committee)

[illegible]

## The House HUMAN RESOURCES/Families Subcommittee Meeting

### Minutes

March 11, 1997

The House HUMAN RESOURCES/Families Subcommittee met on March 11, 1997 at 11:00 AM in the Legislative Office Building in room 605. Members present included Representatives Ives (Chairman), Esposito, Gulley, Watson, Bowie, Easterling, Adams, Insko, McAllister, Nesbitt, Wood, Daughtery, Howard, Creech and Aldridge. Representative Ives presided.

Representative Ives called the meeting to order at 11:05 AM and he introduced Ms. Linda Attarian, Committee Counsel, to give an explanation of HB 145 Day Care/Playground Equipment ( see attachment #1). She referred the members to the Bill Summary of HB 145 ( see attachment #2) and went over it with them.

Representative Nichols, the bill sponsor explained the need for the bill and how it came out of the Administrative Procedures Oversight Committee. He further explained the changes that would affect the rule making process of the Child Day Care Commission and gave the injury statistics for day care centers since 1996. Representative Nichols also said that this bill was not to make the day care centers less safe, but to let the parents make their own decisions as they have in the past. Day care centers will be required to make the parents aware of the results of the inspections conducted at their centers.

Representative Ives asked the committee if they had any questions. Representative Easterling asked to hear from the advocates of the rules. Representative Nichols replied that they had spoken at the last meeting against the bill, but he had forty phone calls from day care centers in favor of the bill. Representative Easterling asked to hear from the advocates of the Child Day Care Commission again and Representative Ives said once the committee has asked their questions, then he would recognize them. Representative Insko said that instead of addressing rules that go too far , it takes away the ability to make regulations about outdoor equipment which is broader. Representative Insko asked how long the Child Day Care Commission has been making rules. Representative Nichols answered that he did not know and Representative Insko said that this bill is an over reaction to their going too far with the rules one time. Representative Nichols added that he and Representative Creech would be willing to accept a committee substitute as long as the Administrative Procedures Oversight Committee stays in place to oversee it and the

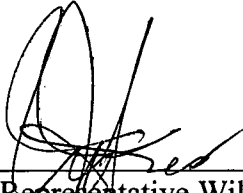
elected members have a chance to make sure that the bureaucracy listens to what they say. Representative Insko asked if the new bill would require that unsafe equipment be replaced or fixed, Representative Nichols said that it is required in either case. Representative Adams asked who determines whether equipment is safe and asked if there are statistics for injuries for the indoor areas and why is the focus on indoors. Ms. Attarian explained that indoor is used as a way to exclude outdoor. Representative Nichols gave statistics on what accidents were indoors versus outdoors. Representative Insko asked for someone to respond to her question on who would determine a piece of equipment unsafe. Ms. Stephanie Fanjul of DHR-DCD answered that under the old language inspectors could require the replacement or removal of the unsafe equipment in 10 days and under the new legislation their attorneys said that this could not be required. Representative Nichols asked Ms. Attarian is that correct and she responded that it is. Representative Nichols asked Ms. Attarian if the Committee Substitute corrects this and she replied that it does.

Representative Nesbitt moved to adopt the Committee Substitute for HB 145 for discussion and the motion carried (see attachment #3). Ms. Attarian then gave a brief summary of the changes in the proposed Committee Substitute for HB 145. She outlined the changes in lines 9-15 page 2 and Section 3. Representative Nesbitt asked if the commission can adopt rules for outdoor equipment and Ms. Attarian replied yes under the definition of inherent threat and dangers as outlined in the Committee Substitute (p. 2 line 9 - 15). Representative Insko asked if the guidelines are non-binding and Ms. Attarian replied that is correct. Representative Insko asked what authority the inspectors have to correct problem equipment. Ms. Attarian replied that they would have the authority to require that it be corrected under the language under Section 3. Representative Adams asked why the word "safe" was eliminated and asked how the wording "normal play" would affect the day care centers' liability. Representative Nichols stated that instead of saying safe the new language defines what is considered safe and that the wording "normal play" does not limit the day care centers' liability. Representative Nichols added that DEHNR also has inspections of outdoor areas. Representative Howard moved to give an unfavorable report to the original HB 145 and to give a favorable report to the Committee Substitute. Representative Ives accepted the motion and asked for further discussion. Representative McAllister asked Ms. Fanjul if the Committee Substitute was more palatable and Ms. Fanjul it is better but she is still hesitant. Representative Ives reminded the committee that DEHNR also inspects day care centers. Representative Ives recognized Angie McMillian who stated that she thought the bill needed more work and hoped that the committee would not vote yet.

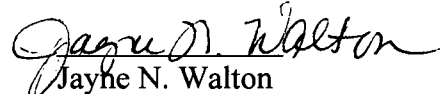
Mr. William Pfeiffer of Orange County asked to address the committee. Mr. Pfeiffer testified that he thought the day care rules were needed and that they should be stricter. The Chair thanked Mr. Pfeiffer for speaking to the committee. Representative Adams asked that the vote be postponed and Representative Howard said that considering the time spent on the bill and having thought that they had worked out an agreement with the Child Day Care Commission, it was time for the bill to move to the House or Senate floor.

and be passed or amended there. The question was called and the motion carried (see attachment #4).

Representative Ives adjourned the meeting at 11:50 AM.

A handwritten signature in black ink, appearing to read 'W. Ives', written over a horizontal line.

Representative William M. Ives  
Chairman

A handwritten signature in black ink, appearing to read 'Jayne N. Walton', written over a horizontal line.

Jayne N. Walton  
Committee Clerk

## GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 145\*

Short Title: Day Care/Playground Equipment.

(Public)

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Sponsors: Representatives Nichols, Allred (Cosponsors), Creech, Mercer, Mitchell, Redwine; Culp, Mosley, Shubert, Smith, Wainwright, and Yongue.

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Referred to: Human Resources.

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February 13, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT PERTAINING TO RULES ADOPTED BY THE CHILD DAY CARE  
3 COMMISSION PERTAINING TO PLAYGROUND EQUIPMENT, AS  
4 RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE  
5 PROCEDURE OVERSIGHT COMMITTEE.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 110-91(6) reads as rewritten:  
8 "(6) Space and Equipment Requirements. -- There shall be no less than  
9 25 square feet of indoor space for each child for which a child day  
10 care facility is licensed, exclusive of closets, passageways, kitchens,  
11 and bathrooms, and this floor space shall provide during rest  
12 periods 200 cubic feet of airspace per child for which the facility is  
13 licensed. There shall be adequate outdoor play area for each child  
14 under rules adopted by the Commission which shall be related to  
15 the size and type of facility, availability and location of outside  
16 land area, except in no event shall the minimum required exceed  
17 75 square feet per child, which area shall be protected to assure  
18 the safety of the children receiving day care by an adequate fence  
19 or other protection; provided, however, that a facility operated in a  
20 public school shall be deemed to have adequate fencing protection;  
21 provided, also, that a facility operating exclusively during the  
22 evening and early morning hours, between 6:00 P.M. and 6:00



1 A.M., need not meet the outdoor play area requirements mandated  
2 by this subdivision.

3 Each child day care facility shall provide indoor area equipment and furnishings  
4 that are child size, sturdy, safe, and in good repair. The Commission shall adopt  
5 standards to establish minimum requirements for indoor area equipment appropriate  
6 for the size facility being operated pursuant to G.S. 110-86(3). Space shall be  
7 available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as  
8 well as designated space for each child's personal belongings."

9 Section 2. Article 7 of Chapter 110 of the General Statutes is amended  
10 by adding the following new section to read:

11 "§ 110-105.3. Assistance to day care center operators regarding outdoor playground  
12 equipment and surfacing.

13 The Commission shall develop guidelines pertaining to outdoor play area  
14 equipment and surfacing at day care facilities. The guidelines are not considered  
15 rules under Chapter 150B of the General Statutes and are not binding upon day care  
16 operators. The guidelines shall be designed to assist operators in determining  
17 whether the equipment and surfacing they currently or intend to provide is child-size,  
18 sturdy, safe, and in good repair. Inspection of outdoor equipment and surfacing shall  
19 be included in facility inspections conducted pursuant to this Article for the purpose  
20 of informing operators of conditions that may pose safety hazards. The Commission  
21 shall make the guidelines available to operators and shall also make available  
22 information and technical assistance that will better enable operators to provide and  
23 maintain a safe outdoor play environment. Day care center operators shall make  
24 available to consumers of the center's services the most recent inspection report  
25 findings with respect to outdoor play area equipment and surfacing at the day care  
26 center."

27 Section 3. This act repeals the authority of the Child Day Care  
28 Commission to adopt rules pertaining to outdoor play area equipment and surfacing  
29 at day care facilities. Accordingly, pursuant to G.S. 150B-21.7, rules adopted by the  
30 Child Day Care Commission pertaining to outdoor play area equipment and  
31 surfacing at day care facilities are repealed.

32 Section 4. This act is effective when it becomes law.



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March 4, 1997

**MEMORANDUM**

**TO:** House Human Resources Committee

**FROM:** Linda Attarian, Committee Counsel

**RE:** **House Bill 145 -- AN ACT PERTAINING TO RULES ADOPTED BY THE CHILD DAY CARE COMMISSION PERTAINING TO PLAYGROUND EQUIPMENT**  
Representatives Nichols and Allred (Co-Sponsors)  
Short Title: Day Care/Playground Equipment

**House Bill 145** repeals the rulemaking authority of the Child Day Care Commission with respect outdoor play area equipment at licensed day care centers and repeals rules adopted by the Commission pertaining to this subject area. The bill amends the statute to restrict Commission rules to indoor equipment at the centers, directs the Commission to develop guidelines for safety of outdoor play area equipment, and states that the guidelines are not rules and are not binding on day care operators.

- Section 1. Amends the section of the General Statutes pertaining to licensure requirements for day care centers. G.S. 110-91(6) requires the Child Day Care Commission to establish minimum requirements for equipment appropriate for the size of the day care center being operated. This section is amended to restrict the standards to indoor area equipment.
- Section 2. Directs the Commission to develop guidelines to assist day care center operators in determining whether playground equipment and surfacing is child-size, sturdy, safe, and in good repair. The guidelines are not rules and are not binding upon day care centers. Inspections of day care centers shall continue to include playground areas so that operators will be informed as to the safety of the equipment. The Commission must make the guidelines available to day care operators and shall provide operators with information and technical assistance. Operators are required to provide consumers of the center's services the most recent inspection report findings with respect to outdoor play equipment.

Section 3. Repeals the Commission's authority with respect to rules on outdoor area equipment, and repeals rules the Commission has already adopted in this area.

Section 4. Makes the act effective when it becomes law.

#### **Background Information:**

The bill is recommended by the Joint Legislative Administrative Procedure Oversight Committee in response to a rule adopted by the Child Day Care Commission (10 NCAC 3U.0602(d)) requiring day care center operators to conform their playground equipment and surfacing to Consumer Product Safety Guidelines (CSPG). The rule became effective January 1, 1996 for equipment and surfacing installed after that date. The rule becomes effective January 1, 1999 for equipment and surfacing installed prior to January 1, 1996. The Committee was concerned that compliance with CPSC guidelines could impose significant financial burdens on day care centers causing them to pass the increased costs along to parents who use the day care services. The Committee was also concerned that regulation that is more restrictive than necessary to achieve its purpose may result in increased costs to providers and purchasers of day care services, and may ultimately adversely affect the availability of affordable day care services. Thus, the Committee made the following findings:

- (1) Outdoor play activities are essential to the emotional and physical development of children. Moreover, although total elimination of risks and injuries to children during normal play activities is very unlikely, hazardous conditions that pose an imminent and serious threat to the safety of children should be identified and addressed by adults responsible for the children's supervision and care.
- (2) Child day care center operators have a duty to inspect the premises regularly to ensure that indoor and outdoor space, furnishings, and equipment are free of hazards that pose imminent danger and threat of serious injury to children while engaged in normal play activities.
- (3) The State should provide information, guidance, and technical assistance to day care center operators that will better enable them to reduce the risks of serious injury to children using outdoor play areas and equipment. The State should provide these services to day care center operators through guidelines that are not binding on operators, rather than through the enforcement of rules. However, State inspections of day care centers should continue to include outdoor play area equipment and surfacing so that persons trained to identify potential hazards to children may inform day care operators of the hazards and the injuries that could result from them.

## GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL 145\*  
H145-PCSRI-01

Short Title: Day Care/Playground Equipment.

(Public)

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Sponsors:

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Referred to: Human Resources.

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February 13, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT PERTAINING TO RULES ADOPTED BY THE CHILD DAY CARE  
3 COMMISSION PERTAINING TO PLAYGROUND EQUIPMENT, AS RECOMMENDED  
4 BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT  
5 COMMITTEE.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 110-91(6) reads as rewritten:  
8 "(6) Space and Equipment Requirements. -- There shall be  
9 no less than 25 square feet of indoor space for  
10 each child for which a child day care facility is  
11 licensed, exclusive of closets, passageways,  
12 kitchens, and bathrooms, and this floor space shall  
13 provide during rest periods 200 cubic feet of  
14 airspace per child for which the facility is  
15 licensed. There shall be adequate outdoor play  
16 area for each child under rules adopted by the  
17 Commission which shall be related to the size and  
18 type of facility, availability and location of  
19 outside land area, except in no event shall the  
20 minimum required exceed 75 square feet per child,  
21 which area shall be protected to assure the safety  
22 of the children receiving day care by an adequate

1 fence or other protection; provided, however, that  
2 a facility operated in a public school shall be  
3 deemed to have adequate fencing protection;  
4 provided, also, that a facility operating  
5 exclusively during the evening and early morning  
6 hours, between 6:00 P.M. and 6:00 A.M., need not  
7 meet the outdoor play area requirements mandated by  
8 this subdivision.

✓9 Each child day care facility shall provide indoor area  
10 equipment and furnishings that are child size, sturdy, safe, and  
11 in good repair. Each child day care facility shall provide  
12 outdoor area equipment and furnishings that are child size,  
13 sturdy, free of hazards that pose imminent danger and threat of  
14 serious injury to children while engaged in normal play  
✓15 activities, and in good repair. The Commission shall adopt  
16 standards to establish minimum requirements for equipment  
17 appropriate for the size facility being operated pursuant to G.S.  
18 110-86(3). Space shall be available for proper storage of beds,  
19 cribs, mats, cots, sleeping garments, and linens as well as  
20 designated space for each child's personal belongings."

21 Section 2. Article 7 of Chapter 110 of the General  
22 Statutes is amended by adding the following new section to read:  
23 "§ 110-105.3. Assistance to day care center operators regarding  
24 outdoor playground equipment and surfacing.

25 The Commission shall develop guidelines pertaining to outdoor  
26 play area equipment and surfacing at day care facilities. The  
27 guidelines are not considered rules under Chapter 150B of the  
28 General Statutes and are not binding upon day care operators.  
29 The guidelines shall be designed to assist operators in  
30 determining whether the equipment and surfacing they currently or  
31 intend to provide is child-size, sturdy, safe, and in good  
32 repair. Inspection of outdoor equipment and surfacing shall be  
33 included in facility inspections conducted pursuant to this  
34 Article for the purpose of informing operators of conditions that  
35 may pose safety hazards. The Commission shall make the  
36 guidelines available to operators and shall also make available  
37 information and technical assistance that will better enable  
38 operators to provide and maintain a safe outdoor play  
39 environment. Day care center operators shall make available to  
40 consumers of the center's services the most recent inspection  
41 report findings with respect to outdoor play area equipment and  
42 surfacing at the day care center."

43 Section 3. This act limits the authority of the Child  
44 Day Care Commission to adopt rules to ensure that outdoor play

1 area equipment and surfacing at day care facilities are free of  
2 hazards that pose imminent danger and threat of serious injury to  
3 children while engaged in normal play activities. Accordingly,  
4 pursuant to G.S. 150B-21.7, rules adopted by the Child Day Care  
5 Commission pertaining to outdoor play area equipment and  
6 surfacing at day care facilities adopted prior to this act  
7 becoming effective are repealed.

8           Section 4. This act is effective when it becomes law.

**1997 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Ives for the Permanent Subcommittee on Families of the Standing Committee on HUMAN RESOURCES.

- ☐ Committee Substitute for  
**H.B. 145** ☐ A BILL TO BE ENTITLED AN ACT PERTAINING TO RULES  
ADOPTED BY THE CHILD DAY CARE COMMISSION PERTAINING TO PLAYGROUND  
EQUIPMENT, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE  
PROCEDURE OVERSIGHT COMMITTEE.

REPORTED TO THE STANDING COMMITTEE ON

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**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a unfavorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: -----

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WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY  
TO THE FLOOR OF THE HOUSE:

Reps. Howard and Alridge for the Standing Committee on HUMAN RESOURCES.

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

*Julie Howard*  
*Darryl Alridge*

## VISITOR REGISTRATION SHEET

Committee: HUMAN RESOURCES FAMILIES Date: MARCH 11, 1997

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Roslyn Smith	NC Child Care Coalition
Charles Cobb Sr	Cobb Child Care Center
Carrie Shuler	KiddieKollege of Knowledge
Kim Judo	KIDS KORNER LEARNING CENTERS
Betty G. Holton	Little Hands Day Care Center
Jim Hall	NC Child Day Care Commission
Maquell Cawley	All About Children Day Care & Preschool
James Evans	Farmer-N'Dell Day Care Kenolene
Jean Nam	Discovery Land Child Care Center Snow Hill
Heff Bowman	Calvary Hospital, Concord.
Tracey Sam	
William G. Pfeiffer	Parent Orange Co.
Ronald Mooring	Colony Day Care/Kids Kampus
Deloris Mooring	Colony Day Care/Kids Kampus
Henry W. Jones, Jr.	Attorney NC Pediatric Society
Pat Sheridan	N/D
Julie Martin-Spears	NC CORER Network
Annie McMillan	DHR
Paula A. Wolf	Covenant with North Carolina's Children
Stephanie Tangel	DHR - DCD
Julie Rehder	NC Child Advocacy Institute
Suzanne Summers	NC Equity
Joc HAA S	NCCSA
Nancy Kuntig	Rep. Esposito's Office
Anna Tefet	OSBM
Scott Mooneyhan	AP



VISITOR REGISTRATION SHEET

Committee: Human Resources Date: MAR 6, 1993

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Myrna Miller

Natl Assoc. of Social Workers. NC Chapter

The House HUMAN RESOURCES/Families Subcommittee Meeting

Minutes

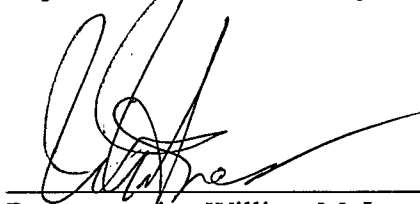
March 18, 1997

The House HUMAN RESOURCES/Families Subcommittee met on March 18, 1997 at 11:00 AM in the Legislative Office Building in room 605. Members present included Representatives Ives (Chairman), Esposito, Watson, Easterling, Adams, McAllister, Nesbitt, Howard and Aldridge. For visitors in attendance see attached Visitor Sheet. Representative Ives presided.

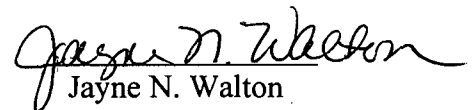
Representative Ives called the meeting to order at 11:01 AM and introduced Representative Frank Mitchell to present House Bill 186 Foster Care Criminal Check Correction (see attachment #1)..Representative Mitchell said that this bill is to enable the State to give persons over eighteen and involved in foster home care a criminal record check to ensure the safety and well being of children placed in such homes. Ms. Linda Attarian, Committee Counsel referred the members to the Bill Summary in their notebooks (see attachment #2). Representative Easterling moved for a favorable report for HB 186 and the motion carried (see attachment #3).

Representative Ives introduced Representative Ruth Easterling to present House Bill 153 Dependent Juvenile Definition Change. Representative Easterling explained that the bill was to clarify the definition of Juvenile Dependent ( see attachment #4). Ms. Linda Attarian referred the committee to the bill summary (see attachment #5). Representative Easterling as a member of the subcommittee moved to give HB 153 a favorable report and the motion carried (see attachment #6). Both bills were reported out of the Subcommittee on Families to the House floor.

Representative Ives then adjourned the meeting at 11:10 AM.



Representative William M. Ives  
Chairman



Jayne N. Walton  
Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 186

Short Title: Foster Care Criminal Check Correction.

(Public)

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Sponsors: Representatives Mitchell, Allred, Creech, Mercer, Nichols, Redwine  
(Cosponsors), Shubert and Morris.

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Referred to: Human Resources, if favorable, Judiciary II.

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February 17, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFYING AMENDMENTS TO THE STATUTES  
3 PROVIDING FOR CRIMINAL HISTORY RECORD CHECKS OF  
4 INDIVIDUALS INVOLVED IN PROVIDING CHILD FOSTER CARE AS  
5 RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE  
6 PROCEDURE OVERSIGHT COMMITTEE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 131D-10.2 reads as rewritten:

9 "§ 131D-10.2. Definitions.

10 For purposes of this Article, unless the context clearly implies otherwise:

- 11 (1) 'Adoption' means the act of creating a legal relationship between  
12 parent and child where it did not exist genetically.  
13 (2) 'Adoptive Home' means a family home approved by a child  
14 placing agency to accept a child for adoption.  
15 (3) 'Child' means an individual less than 18 years of age, who has not  
16 been emancipated under the provisions of Article 56 of Chapter  
17 7A of the General Statutes.  
18 (4) 'Child Placing Agency' means a person authorized by statute or  
19 license under this Article to receive children for purposes of  
20 placement in residential group care, family foster homes or  
21 adoptive homes.

(5) 'Children's Camp' means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.

(6) 'Commission' means the Social Services Commission.

(6a) 'Criminal History' means a county, state, or federal criminal history of conviction or a pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(7) 'Department' means the Department of Human Resources.

(8) 'Family Foster Home' means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

(9) 'Foster Care' means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.

(9a) 'Foster Parent' means any individual who is 18 years of age or older who ~~permanently resides in a family foster home licensed by~~

~~the State and any such individual applying to provide family foster care.~~ is licensed by the State to provide foster care.

(10) 'Person' means an individual, partnership, joint-stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.

(11) 'Primarily Educational Institution' means any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.

(12) 'Provisional License' means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(13) 'Residential Child-Care Facility' means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care."

Section 2. G.S. 131D-10.3A reads as rewritten:

"§ 131D-10.3A. ~~Mandatory criminal checks of foster parents.~~ checks.

(a) Effective January 1, 1996, in order to ensure the safety and well-being of any child placed for foster care in a home, the Department shall ensure that the criminal histories of all foster ~~parents~~ parents, individuals applying for licensure as foster parents, and individuals 18 years of age or older who reside in a family foster home, are checked ~~and a determination of the foster parent's fitness to have responsibility for the safety and well-being of children based on the criminal history is made; and,~~ based on the criminal history check, a determination is made as to whether the foster parents, and other individuals required to be checked, are fit for a foster child to reside with them in the home. The Department shall ensure that, as of the effective date of this act, all ~~foster parents~~ individuals required to be checked are checked for county, state, and federal criminal histories.

(b) The Department shall ensure that all ~~foster parents~~ individuals who ~~have been~~ are required to be checked pursuant to subsection (a) of this section are checked annually upon relicensure for county and State criminal histories.

(c) The Department may prohibit ~~a foster parent~~ an individual from providing foster care by denying or revoking the license to provide foster care if the Department determines that ~~the foster parent is unfit to have responsibility for the safety and well-being of children based on the criminal history.~~ the safety and well-being of a child placed in the home for foster care would be at risk based on the criminal history of the individuals required to be checked pursuant to subsection (a) of this section.

1 (d) The Department of Justice shall provide to the Department of Human  
2 Resources the criminal history of the ~~foster-parent~~ individuals specified in subsection  
3 (a) of this section obtained from the State and National Repositories of Criminal  
4 Histories as requested by the Department. The Department shall provide to the  
5 Department of Justice, along with the request, the fingerprints of the ~~foster-parent~~  
6 individual to be checked, any additional information required by the Department of  
7 Justice, and a form consenting to the check of the criminal record and to the use of  
8 fingerprints and other identifying information required by the State or National  
9 Repositories signed by the ~~foster-parent~~ individual to be checked. The fingerprints of  
10 the ~~foster-parent~~ individual to be checked shall be forwarded to the State Bureau of  
11 Investigation for a search of the State's criminal history record file, and the State  
12 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of  
13 Investigation for a national criminal history record check.

14 (e) At the time of application, the ~~foster-parent~~ individual whose criminal history  
15 is to be checked shall be furnished with a statement substantially similar to the  
16 following:

17  
18 'NOTICE

19  
20 ~~FOSTER-PARENT~~  
21 MANDATORY CRIMINAL HISTORY CHECK

22  
23 NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL  
24 HISTORY CHECK BE CONDUCTED ON ALL PERSONS 18 YEARS OF AGE  
25 OR OLDER WHO PROVIDE FOSTER CARE RESIDE IN A LICENSED FAMILY  
26 FOSTER HOME.

27 "Criminal history" includes any county, state, and federal convictions or  
28 pending indictments of any crime, of any of the following crimes: the following  
29 Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape  
30 and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction;  
31 Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or  
32 Material; Article 26, Offenses Against Public Morality and Decency; Article 27,  
33 Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family;  
34 and Article 59, Public Intoxication; violation of the North Carolina Controlled  
35 Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related  
36 offenses such as sale to underage persons in violation of G.S. 18B-302 or driving  
37 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes  
38 under federal law or under the laws of other states. Your fingerprints will be used to  
39 check the criminal history records of the State Bureau of Investigation (SBI) and the  
40 Federal Bureau of Investigation (FBI).

41 If it is determined, based on your criminal history, that you are unfit to  
42 have ~~responsibility for the safety and well-being of children, a foster child reside with~~  
43 you, you shall have the opportunity to ~~complete~~, complete or challenge the accuracy  
44 ~~of, of~~ the information contained in the SBI or FBI identification records.

1           If ~~you are denied~~ licensure is denied or ~~your~~ the foster home license is  
2   revoked by the Department of Human Resources as a result of the criminal history  
3   check, if you are a foster parent, or are applying to become a foster parent, you may  
4   request a hearing pursuant to Article 3 of Chapter 150B of the General Statutes, the  
5   Administrative Procedure Act.

6           Any ~~foster parent~~ person who intentionally falsifies any information  
7   required to be furnished to conduct the criminal history is guilty of a Class 2  
8   misdemeanor.'

9   Refusal to consent to a criminal history check is grounds for the Department to  
10 ~~prohibit the foster parent from providing~~ deny or revoke a license to provide foster  
11 care. Any ~~foster parent~~ person who intentionally falsifies any information required to  
12 be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

13   (f) The Department shall notify in writing the foster parent and any person  
14 applying to be licensed as a foster parent, and that individual's supervising agency of  
15 the determination by the Department of whether the foster parent is qualified to  
16 provide foster care based on the ~~foster parent's criminal history.~~ history of all  
17 individuals required to be checked. In accordance with the law regulating the  
18 dissemination of the contents of the criminal history file furnished by the Federal  
19 Bureau of Investigation, the Department shall not release nor disclose any portion of  
20 ~~the foster parent's~~ an individual's criminal history to the ~~foster parent.~~ parent or any  
21 other individual required to be checked. The Department shall also notify the ~~foster~~  
22 ~~parent~~ individual of the ~~foster parent's~~ individual's right to review the criminal  
23 history information, the procedure for completing or challenging the accuracy of the  
24 criminal history, and the foster parent's right to contest the Department's  
25 determination.

26   A foster parent who disagrees with the Department's decision may request a  
27 hearing pursuant to Chapter 150B of the General Statutes, the Administrative  
28 Procedure Act.

29   (g) All the information that the Department receives through the checking of the  
30 criminal history is privileged information and is not a public record but is for the  
31 exclusive use of the Department and those persons authorized under this section to  
32 receive the information. The Department may destroy the information after it is used  
33 for the purposes authorized by this section after one calendar year.

34   (h) There is no liability for negligence on the part of a supervising agency, or a  
35 State or local agency, or the employees of a State or local agency, arising from any  
36 action taken or omission by any of them in carrying out the provisions of this section.  
37 The immunity established by this subsection shall not extend to gross negligence,  
38 wanton conduct, or intentional wrongdoing that would otherwise be actionable. The  
39 immunity established by this subsection shall be deemed to have been waived to the  
40 extent of indemnification by insurance, indemnification under Article 31A of Chapter  
41 143 of the General Statutes, and to the extent sovereign immunity is waived under  
42 the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

43   (i) The Department of Justice shall perform the State and national criminal  
44 history checks on ~~foster parents~~ individuals required by this section and shall charge

1 the Department of Human Resources a reasonable fee only for conducting the checks  
2 of the national criminal history records authorized by this section. The Division of  
3 Social Services, Department of Human Resources, shall bear the costs of  
4 implementing this section."

5 Section 3. G.S. 114-19.4 reads as rewritten:

6 "**§ 114-19.4. Criminal record checks ~~of foster parents~~ for foster care.**

7 The Department of Justice may provide to the Division of Social Services,  
8 Department of Human Resources, the criminal history from the State and National  
9 Repositories of Criminal Histories as defined in G.S. 131D-10.2(6a). The Division  
10 shall provide to the Department of Justice, along with the request, the fingerprints of  
11 the ~~foster parent~~ individual to be checked, any additional information required by the  
12 Department of Justice, and a form consenting to the check of the criminal record and  
13 to the use of fingerprints and other identifying information required by the State or  
14 National Repositories signed by the ~~foster parent~~ individual to be checked. The  
15 fingerprints of the ~~foster parent~~ individual shall be forwarded to the State Bureau of  
16 Investigation for a search of the State's criminal history record file, and the State  
17 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of  
18 Investigation for a national criminal history record check. The Division shall keep all  
19 information pursuant to this section privileged, as provided in G.S. 131D-10.3A(g).  
20 The Department of Justice shall charge a reasonable fee only for conducting the  
21 checks of the national criminal history records authorized by this section."

22 Section 4. This act is effective when it becomes law.





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Legislative Services Office**

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March 11, 1997

**MEMORANDUM**

**TO:** Subcommittee on Families of House Human Resources Committee

**FROM:** Linda Attarian, Committee Counsel

**RE:** HB 186 – First Edition – Representatives Mitchell, Allred, Creech, Mercer, Nichols, Redwine (Cosponsors)

**Explanation of House Bill 186: An Act to Make Clarifying Amendments to the Statutes Providing for Criminal History Record Checks Of Individuals Involved in Providing Child Foster Care as Recommended by the Joint Legislative Administrative Procedure Oversight Committee**

House Bill 186 will correct any ambiguity in recent amendments to the child foster care licensing statute requiring a criminal history record check be conducted on all persons providing child foster care and any adult member of the foster family household. The ambiguity in the law that was identified by the Rules Review Commission. The bill corrects the ambiguity by clarifying that the definition of "foster parent" only applies to a person licensed or seeking to be licensed as a foster parent. The bill also ensures that the legislative intent of the 1995 amendments are maintained by requiring that as a condition of licensure or relicensure as a family foster home, all persons, age 18 or older, residing in the family foster home, have their national and state criminal history record checked to determine if they are unfit for a foster child to reside with them.

**Section By Section Summary:**

Section 1. Amends G.S. 131D-10.2(9a), the definition of "Foster Parent", to limit the term to just those people who are licensed to provide foster care.

Section 2. Amends G.S. 131D-10.3A to specifically spell out that criminal history record checks are to be performed on persons currently licensed as foster parents, person seeking to be licensed as

foster parents, and any other person 18 years of age or over who lives in a foster home, or a home that might be licensed. The amendment also clarifies that licensure shall be denied or revoked if DSS determines, based on the criminal history record check, that any of the adults are unfit for a foster child to reside with them. Conforming changes are also made in the notification form given to the person whose criminal record is to be checked.

Section 3. Makes conforming changes to the statute which authorizes the SBI to furnish these criminal history record checks.

Section 4. Makes the act effective when it becomes law.

### **Background Information:**

In 1995, the General Assembly amended the child foster care licensing statute to provide that the national and state criminal history record be checked not only on persons licensed or seeking to be licensed as foster parents, but also any other person age 18 or older permanently residing in the household. Other parts of this same article clearly referred to foster parents as those persons licensed as foster parents, and not all adults permanently residing in the home. Funds were appropriated to cover the cost for record checks of foster parents as well as the other adults. The change in the law was effective January 1, 1996. The Social Services Commission adopted temporary rules to implement this new law and proceeded with the adoption of permanent rules.

The permanent rules were submitted to the Rules Review Commission for approval at its July, 1996 meeting. Based on a staff recommendation that the foster care statutes, when read as a whole, were not clear that the Social Services Commission had the authority to require criminal history record checks on individuals living in the foster home who were not seeking to be licensed, the Rules Review Commission objected to the rules. The Rules Review Commission felt there was ambiguity in the statutes related to the term "foster parent".

Based on the objections raised by the Rules Review Commission, the Social Services Commission revised its rules to satisfy the Rules Review Commission's objections by deleting references to other persons age 18 or older permanently residing in the home. At its September, 1996 meeting, the Rules Review Commission approved the revised rules. Based on the revisions to the revised rules, the Social Services Commission ceased obtaining the full criminal history record on non-licensed persons age 18 or older permanently residing in the family foster home.

The Administrative Procedure Oversight Committee felt as a result of this change in the proposed rule, the Social Services Commission was not carrying out the legislative intent to check the criminal history record of all persons age 18 or older permanently residing in a family foster home. The Committee thought the statute should be clarified to remove any ambiguity arising from the definition and use of the term "foster parent".

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 153\*

Short Title: Dependent Juv. Definition Change.

(Public)

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Sponsors: Representatives Easterling; Adams, Baddour, Clary, Cunningham, Dickson, H. Hunter, Insko, Jarrell, Jeffus, McCrary, Moore, Mosley, Nye, Smith, Wainwright, Warner, Watson, and Wright.

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Referred to: Human Resources, if favorable, Judiciary II.

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February 13, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO  
3 IMPROVE THE DEFINITION OF "DEPENDENT JUVENILE".  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 7A-517(13) reads as rewritten:  
6 "(13) Dependent Juvenile. -- A juvenile in need of assistance or  
7 placement because ~~he~~ the juvenile has no parent, guardian, or  
8 custodian responsible for the juvenile's care or supervision or  
9 whose parent, guardian, or ~~eustodian, due to physical or mental~~  
10 ~~ineapacity and the absence of an appropriate alternative child care~~  
11 ~~arrangement, custodian~~ is unable to provide for the care or  
12 ~~supervision. supervision and lacks an appropriate alternative child~~  
13 ~~care arrangement."~~  
14 Section 2. This act becomes effective October 1, 1997, and applies to  
15 adjudications of dependency made on or after that date.



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March 4, 1997

**MEMORANDUM**

**TO:** House Human Resource Committee

**FROM:** Linda Attarian, Committee Counsel

**RE:** **House Bill 153 - AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO IMPROVE THE DEFINITION OF "DEPENDENT JUVENILE."**

**Explanation:**

When the Juvenile Code was codified in 1979 a "dependent juvenile" was defined as a juvenile in need of assistance or placement because:

"... the juvenile has no parent, guardian, or custodian responsible for his care or supervision or whose parent, guardian, or custodian is unable to provide for his care or supervision."

Currently the Juvenile Code defines a "dependent juvenile" as a juvenile in need of placement or assistance because:

"... the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or the juvenile's parent, guardian or custodian is unable to provide care or supervision **due to physical or mental incapacity and the absence of an appropriate alternative child care arrangement.**"

In construing this definition, it is unclear as to whether the "absence of an appropriate alternative child care arrangement" is a necessary factor in finding that a juvenile who has no parent, guardian, or custodian responsible for his or her care and supervision is "dependent". Further, it is also unclear as to whether the phrase "due to physical or mental incapacity" applies to the parent, guardian or custodian or to the juvenile.

**House Bill 153** would change the law to define a "dependent juvenile" as a juvenile in need of placement or assistance because:

"... the juvenile has no parent, guardian, or custodian responsible for his care or supervision **OR** whose parent, guardian or custodian is unable to provide for care or supervision **AND** lacks an appropriate alternative child care arrangement."

Under the bill, a juvenile who either has no parent or guardian or custodian responsible for his or her care or supervision or the juvenile's parent, guardian or custodian is unable (for any reason) to provide for his

or her care or supervision and (in either case), there is no alternative child care arrangement available to the juvenile, he or she is "dependent" under the Juvenile Code.

## **Background Information:**

### **"Dependent Juvenile" compared to "Neglected Juvenile"**

A dependent juvenile is distinguished in the Juvenile Code from a neglected juvenile in that a neglected juvenile is one ". . . who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law"

### **Other states:**

Only three other states (Arizona, Colorado, and Kentucky) have a statutory definition of "dependent juvenile". The definitions are provided for comparison to NC below.

1. **Arizona:** "Dependent Child" mean a child who is adjudicated to be:
  - (a) In need of proper and effective parental care and control and has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.
  - (b) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian, or any other person having custody or care of the child.
  - (c) Under the age of eight years and who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.
  - (d) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in 13-604.
2. **Colorado:** "Neglected or dependent child"
  - (1) A child is neglected or dependent if:
    - (a) A parent, guardian, or legal custodian has abandoned the child or has subjected him to mistreatment or abuse or a parent, guardian, or legal custodian has allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring;
    - (b) The child lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian;
    - (c) The child's environment is injurious to his welfare;
    - (d) A parent, guardian, or legal custodian fails or refuses to provide the child with proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance, or well-being;
    - (e) The child is homeless, without proper care, or not domiciled with his parent, guardian, or legal custodian through no fault of such parent, guardian, or legal custodian;
    - (f) The child has run away from home or is otherwise beyond the control of his parent, guardian, or legal custodian.
3. **Kentucky:** "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child.

**1997 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) William M. Ives for the Permanent Subcommittee on Families of the Standing Committee on HUMAN RESOURCES.

☐ Committee Substitute for

**H.B. 153**

☐ A BILL TO BE ENTITLED AN ACT RECOMMENDED BY THE CHILD FATALITY TASK FORCE TO IMPROVE THE DEFINITION OF "DEPENDENT JUVENILE".

REPORTED TO THE STANDING COMMITTEE ON

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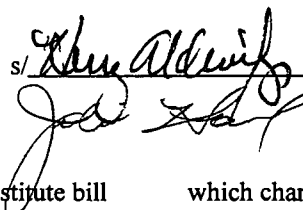
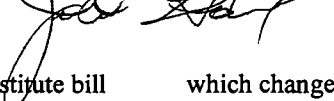
**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a unfavorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: -----

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. Henry Aldridge and Rep. Julia Howard for the Standing Committee on HUMAN RESOURCES.

- s/   

- ☒ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

**1997 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **William M. Ives** for the Permanent Subcommittee on **Families** of the Standing Committee on **HUMAN RESOURCES**.

☐ Committee Substitute for

**H.B. 186**

☐ A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING AMENDMENTS TO THE STATUTES PROVIDING FOR CRIMINAL HISTORY RECORD CHECKS OF INDIVIDUALS INVOLVED IN PROVIDING CHILD FOSTER CARE AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE

REPORTED TO THE STANDING COMMITTEE ON

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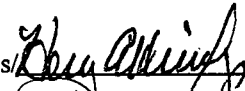
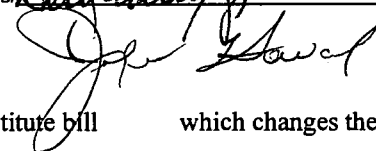
**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a unfavorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. Henry Aldridge and Rep. Julia Howard for the Standing Committee on **HUMAN RESOURCES**.

s/   


- ☒ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

# VISITOR REGISTRATION SHEET

Committee: HUMAN RESOURCES (FAMILY) Date: MAR 18, 1997

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Steve Shaba	Jordan Driscoll Jones
Myna Thille	NASW-NC
Thomas V. Bennett	NCCFTE Raleigh, NC
Brenda Summers	NC Equity Raleigh
Peyton Maynard	gpa
Joyce Johnson	DHR
Shanene Ransome	DSS
JoAnn Lamm	DSS
Gene Nelson	Child Fatality Task Force
Julie Rehder	NC Child Advocacy Institute
AL DITCH	YAFD
Alexander Williams	BONE & ASSOC / LTC
Nate Roschard	STATE BUDGET
ISE DELUCA	RRL



The House HUMAN RESOURCES Subcommittee on Families

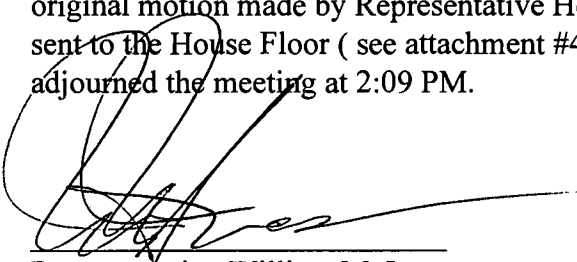
April 23, 1997

Minutes

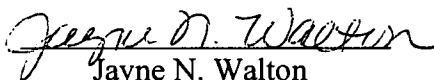
The House HUMAN RESOURCES Subcommittee on Families met on April 23, 1997 in the Legislative Office Building at 1:00 PM. The following members were present: Representatives Esposito, Watson, Easterling, Adams, Insko, McAllister, Wood, Howard, Aldridge with Representative Ives (Chairman) presiding.

Representative Ives called the meeting to order at 1:08 PM. The subcommittee took up House Bill 896. Representative Howard moved to accept a committee substitute, the motion carried (see attachment #1). Representative Charlotte Gardner presented the bill and asked John Young from the Research Division to explain the changes in the bill. Mr. Young explained that difference was in the age group ratios and affected the Large Day Care Homes only and an emergency contact was required. Representative Gardner added that this change was needed because of the Department of the Human Resources' interpretation of the word 'facility' in the 1993 bill passed dealing with this same issue. After much discussion about the potential impact of suggested changes in the bill, Representative Howard moved to give HB 896 Committee Substitute a favorable report, unfavorable to the original bill. Representative Ives accepted the motion. Representative Insko offered an amendment (see attachment #2) and Ms. Cathy Schuler of the Kiddie Korner Day Care Center in Smithfield addressed the problems they have with the restrictions placed on them. A vote was taken on the amendment and the motion failed.

Ms. Linda Attarian of the Research Division explained the second section of HB896 Committee Substitute that deals with playground equipment. Representative Insko offered another amendment (see attachment #3). Ms. Schuler addressed the subcommittee again concerning playground equipment requirements and safety measures and problems with compliance. Representative Ives called for a vote on the second amendment and the motion failed. Representative Ives then called for a vote on the original motion made by Representative Howard and the motion carried and the bill was sent to the House Floor ( see attachment #4). Representative Ives thanked everyone and adjourned the meeting at 2:09 PM.



Representative William M. Ives  
Chairman



Jayne N. Walton  
Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 896

Short Title: Large Day Care Home Change.

(Public)

Sponsors: Representatives Gardner; and Watson.

Referred to: Human Resources.

April 8, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE LAW REGARDING STAFF/CHILD RATIOS FOR  
3 CHILD DAY CARE FACILITIES TO ADDRESS THE SPECIAL NEEDS OF  
4 LARGE CHILD DAY CARE HOMES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 110-91(7) reads as rewritten:

7 "(7) Staff-Child Ratio. -- In determining the staff-child ratio, all  
8 children younger than 13 years shall be counted. The Commission  
9 shall adopt rules regarding staff-child ratios, group sizes and multi-  
10 age groupings for each category of facility other than for infants  
11 and toddlers, provided that these rules shall be no less stringent  
12 than those currently required for staff-child ratios as enacted in  
13 Section 156(e) of Chapter 757 of the 1985 Session Laws. The staff-  
14 child ratios and group sizes for infants and toddlers for all facilities  
15 except child day care large homes for infants and toddlers shall be  
16 no less stringent than as follows:

17	Age	Ratio	Group Size
18	0 to 12 months	5	10
19	12 to 24 months	6	12
20	2 to 3 years	10	20.

21 The staff-child ratio for child day care large homes for all  
22 children shall be no less stringent than as follows:

23	<u>Age</u>	<u>Ratio</u>	<u>Qualifications</u>
----	------------	--------------	-----------------------

0 to 13 years                      8

a. There is no specific group size requirement. No more than three children may be less than 12 months old with one caregiver.

b. When only one caregiver is required to meet this staff-child ratio, the operator shall make available to parents the name, address, and phone number of an adult who is nearby and available for emergency relief.

c. Children shall be supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room as long as a caregiver can hear them and respond immediately."

Section 2. This act becomes effective October 1, 1997.



**North Carolina General Assembly  
Legislative Services Office**

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April 8, 1997

**MEMORANDUM**

**TO:** House Human Resources Committee

**FROM:** John Young, Committee Staff

**RE:** **House Bill-896**  
Representatives Gardner and Watson

---

Article 7 of G.S. 110 requires mandatory licensing of child day care facilities. Child day care facilities are separated by capacity into the following categories which determines applicable requirements and standards.

These facility types are:

- (1). Large home
- (2) Small Center
- (3) Medium Center
- (4) Large Center

The Commission for Child Day Care has the authority to adopt rules regarding staff-child ratios, group sizes and multi-age groupings for each category of facility other than infants and toddlers.

House Bill 486 would amend G.S. 110 by changing the ratios and maximum group sizes for large day care homes only. Currently, large day care homes may care for up to 12 children. The same ratios and group sizes apply to all facilities listed above. Current law allows a 1:5 staff-child ratio and maximum group size of 10 for children 12 months and younger; 1:6 ratio and maximum group size of 12 for children 12 to 24 months; and 1:10 ratio and group size 20 for children 2 to 3 years old. This bill would add a section which changes the ratio for large homes to 1:8 for children ages 0-13 years with no more than three infants (less than 12 months old) allowed with one caregiver. The bill also requires that when there is only one caregiver, the operator must make available to parents the name of an emergency contact. It also states that children shall be supervised at all

times—but allows children to be sleeping or resting in another room as long as a caregiver can hear them and respond immediately.

This bill would make the maximum ratio and group size for large day care homes comparable to small day care homes. Small homes may care for up to 8 children, with no more than 5 preschool age children, regardless if they are all infants. Under current law, a large day care home operator would have to add another staff person if 5 infants or 6 toddlers were in care along with other children.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 896  
Proposed Committee Substitute H896-PCSA350

Short Title: Day Care Changes.

(Public)

Sponsors:

Referred to:

April 8, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE LAW REGARDING STAFF-CHILD RATIOS FOR  
3 CHILD DAY CARE FACILITIES TO ADDRESS THE SPECIAL NEEDS OF  
4 LARGE CHILD DAY CARE HOMES AND REGARDING RULES ADOPTED  
5 BY THE CHILD DAY CARE COMMISSION PERTAINING TO  
6 PLAYGROUND EQUIPMENT.  
7 The General Assembly of North Carolina enacts:  
8 Section 1. (a) G.S. 110-91(7) reads as rewritten:  
9 "(7) Staff-Child Ratio. -- In determining the staff-child ratio, all  
10 children younger than 13 years shall be counted. The Commission  
11 shall adopt rules regarding staff-child ratios, group sizes and multi-  
12 age groupings for each category of facility other than for infants  
13 and toddlers, provided that these rules shall be no less stringent  
14 than those currently required for staff-child ratios as enacted in  
15 Section 156(e) of Chapter 757 of the 1985 Session Laws. The staff-  
16 child ratios and group sizes for infants and toddlers for all facilities  
17 except child day care large homes for infants and toddlers shall be  
18 no less stringent than as follows:  
19                   Age                   Ratio                   Group Size  
20                   0 to 12 months           5                   10  
21                   12 to 24 months       6                   12  
22                   2 to 3 years           10                  20.

The staff-child ratio for child day care large homes for all children shall be no less stringent than as follows:

<u>Age</u>	<u>Ratio</u>	<u>Qualifications</u>
<u>0 to 13 years</u>	<u>8</u>	<u>a. There is no specific group size requirement. No more than two children may be less than 12 months old with one caregiver.</u> <u>b. When only one caregiver is required to meet this staff-child ratio, the operator shall make available to parents the name, address, and phone number of an adult who is nearby and available for emergency relief.</u> <u>c. Children shall be supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room as long as a caregiver can hear them and respond immediately."</u>

(b) This section becomes effective October 1, 1997.

Section 2. G.S. 110-91(6) reads as rewritten:

"(6) Space and Equipment Requirements. -- There shall be no less than 25 square feet of indoor space for each child for which a child day care facility is licensed, exclusive of closets, passageways, kitchens, and bathrooms, and this floor space shall provide during rest periods 200 cubic feet of airspace per child for which the facility is licensed. There shall be adequate outdoor play area for each child under rules adopted by the Commission which shall be related to the size and type of facility, availability and location of outside land area, except in no event shall the minimum required exceed 75 square feet per child, which area shall be protected to assure the safety of the children receiving day care by an adequate fence or other protection; provided, however, that a facility operated in a public school shall be deemed to have adequate fencing protection; provided, also, that a facility operating exclusively during the evening and early morning hours, between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area requirements mandated by this subdivision.

Each child day care facility shall provide indoor area equipment and furnishings that are child size, sturdy, safe, and in good repair. Each child day care facility shall provide outdoor area equipment and furnishings that are child size, sturdy, free of hazards that pose

1           threat of serious injury to children while engaged in normal play  
2           activities, and in good repair. The Commission shall adopt  
3           standards to establish minimum requirements for equipment  
4           appropriate for the size facility being operated pursuant to G.S.  
5           110-86(3). Space shall be available for proper storage of beds,  
6           cribs, mats, cots, sleeping garments, and linens as well as  
7           designated space for each child's personal belongings."

8           Section 3. Article 7 of Chapter 110 of the General Statutes is amended  
9 by adding the following new section to read:

10 **"§ 110-105.3. Assistance to day care center operators regarding outdoor playground**  
11 **equipment and surfacing.**

12       The Commission shall develop guidelines pertaining to outdoor play area  
13 equipment and furnishings at day care facilities. The guidelines are not considered  
14 rules under Chapter 150B of the General Statutes and are not binding upon day care  
15 operators. The guidelines shall be designed to assist operators in determining  
16 whether the equipment and surfacing they currently or intend to provide is child size,  
17 sturdy, safe, and in good repair. Inspection of outdoor equipment and surfacing shall  
18 be included in facility inspections conducted pursuant to this Article for the purpose  
19 of informing operators of conditions that may pose safety hazards. The Department  
20 shall make the guidelines available to operators and shall also make available  
21 information and technical assistance that will better enable operators to provide and  
22 maintain a safe outdoor play environment. Day care center operators shall make  
23 available to consumers of the center's services the most recent inspection report  
24 findings with respect to outdoor play area equipment and surfacing at the day care  
25 center."

26           Section 4. Sections 2 and 3 of this act limit the authority of the Child  
27 Day Care Commission to adopt rules to ensure that outdoor play area equipment and  
28 surfacing at day care facilities are free of hazards that pose imminent danger and  
29 threat of serious injury to children while engaged in normal play activities.  
30 Accordingly, pursuant to G.S. 150B-21.7, rules adopted by the Child Day Care  
31 Commission pertaining to outdoor play area equipment and surfacing at day care  
32 facilities adopted prior to this act becoming effective are repealed.

33           Section 5. Except as otherwise provided in this act, this act is effective  
34 when it becomes law.  
35





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April 8, 1997

**MEMORANDUM**

**TO:** House Human Resources Committee

**FROM:** John Young, Committee Staff  
Linda Attarian, Committee Counsel

**RE:** **House Bill-896**  
Representatives Gardner and Watson

Article 7 of G.S. 110 requires mandatory licensing of child day care facilities. Child day care facilities are separated by capacity into the following categories which determines applicable requirements and standards.

These facility types are:

- (1) Large home
- (2) Small Center
- (3) Medium Center
- (4) Large Center

The Commission for Child Day Care has the authority to adopt rules regarding staff-child ratios, group sizes and multi-age groupings for each category of facility other than infants and toddlers.

House Bill 486 would amend G.S. 110 by changing the ratios and maximum group sizes for large day care homes only. Currently, large day care homes may care for up to 12 children. The same ratios and group sizes apply to all facilities listed above. Current law allows a 1:5 staff-child ratio and maximum group size of 10 for children 12 months and younger; 1:6 ratio and maximum group size of 12 for children 12 to 24 months; and 1:10 ratio and group size 20 for children 2 to 3 years old. This bill would add a section which changes the ratio for large homes to 1:8 for children ages 0-13 years with no more than three infants (less than 12 months old) allowed with one caregiver. The bill also requires that when there is only one caregiver, the operator must make available to parents the name

of an emergency contact. It also states that children shall be supervised at all times—but allows children to be sleeping or resting in another room as long as a caregiver can hear them and respond immediately.

This bill would make the maximum ratio and group size for large day care homes comparable to small day care homes. Small homes may care for up to 8 children, with no more than 5 preschool age children, regardless if they are all infants. Under current law, a large day care home operator would have to add another staff person if 5 infants or 6 toddlers were in care along with other children.

Sections 2 through 4 of this Proposed Committee Substitute incorporates the provisions (with one exception described below) in the Proposed Committee Substitute (PCS) for House Bill 145, AN ACT PERTAINING TO RULES ADOPTED BY THE CHILD DAY CARE COMMISSION PERTAINING TO PLAYGROUND EQUIPMENT, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE., which was adopted favorably by the House Human Resources Committee in March.

As a reminder, the PCS to House Bill 145 restricts the rulemaking authority of the Child Day Care Commission with respect outdoor play area equipment and surfacing at licensed day care centers to rules that ensure that such equipment and surfacing are free of hazards that pose imminent danger and treat of serious injury to children while engaged in normal play activities.

The PCS to House Bill 145 also amends the General Statutes pertaining to licensure requirements for day care centers. G.S. 110-91(6) currently requires the Child Day Care Commission to establish minimum requirements for indoor and outdoor equipment and furnishings. The day care facility must have equipment and furnishing that are child size, sturdy, safe and in good repair. This provision is amended by the PCS to House Bill 145 to restrict these standards to indoor area equipment and furnishings only. As to outdoor play areas, the PCS to House Bill 145 requires each child day care facility to provide outdoor area equipment and furnishing that are child size, sturdy, in good repair, and free of hazards that pose imminent danger and treat of serious injury to children while engaged in normal play activities.

The PCS to House Bill 145 also directs the Commission to develop guidelines to assist day care center operators in determining whether playground equipment and surfacing is child-size, sturdy, safe, and in good repair. The guidelines are not rules and are not binding upon day care centers. Inspections of day care centers shall continue to include playground areas so that operators will be informed as to the safety of the equipment. The Commission must make the guideline available to day care operators and shall provide operators with information and technical

assistance. Operators are required to provide consumers of the center's services the most recent inspection report findings with respect to outdoor play equipment.

The Proposed Committee Substitute to House Bill 896 incorporates all of the above with the exception that G.S. 110-91(6) is amended to require child day care facilities to provide outdoor area equipment and furnishings that are child size, sturdy, free of hazards that **pose treat of serious injury** to children while engaged in normal play activities, and in good repair. (Instead of free of hazards **that pose imminent danger and threat of serious injury**).

4-23-97 att.#32  
NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 896

DATE 4-23-97

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE ☒

(to be filled in by  
Principal Clerk)

Rep. ) Insko  
~~Sen. )~~

1 moves to amend the bill on page 2, line 5

2 ( ) WHICH CHANGES THE TITLE

3 by inserting the following sentence  
4 after the word "requirement."

5  
6 "No more than 6 children may  
7 be between the ages of 12 months old  
8 and 36 months ~~old~~ with one caregiver."

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

SIGNED John C Insko

ADOPTED \_\_\_\_\_ FAILED ☒ TABLED \_\_\_\_\_

## NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

(to be filled in by  
Principal Clerk)

Rep. )

)

Sen. )

1 moves to amend the bill on page 2, line lines 43-

2 ( ) WHICH CHANGES THE TITLE

3 by \_\_\_\_\_

4 rewriting those lines to read:5 " Each child day care facility shall6 provide outdoor play area equipment7 and surfacing that are in good8 repair and free of hazards9 that pose a threat of serious10 injury to children while11 engaged in normal play activities.12 In addition, the outdoor play13 area equipment shall be sturdy14 and child size. The Commission15 shall adopt"; and on page 316 lines 31-32 by rewriting those lines to17 read: Commission pertaining to outdoor18 play area equipment and surfacing at day19 careSIGNED Ulla C. InsleyADOPTED \_\_\_\_\_ FAILED ☒ TABLED \_\_\_\_\_

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

page 2

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

(to be filled in by  
Principal Clerk)

Rep. )

)

Sen. )

1 moves to amend the bill on page \_\_\_\_\_, line \_\_\_\_\_

2 ( ) WHICH CHANGES THE TITLE

3 by \_\_\_\_\_

4 care facilities due to become

5 effective January 1, 1999 are repealed."

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SIGNED Theresa C. Insko

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

**1997 PERMANENT SUBCOMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE  
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Ives for the Permanent Subcommittee on Families of the Standing Committee on HUMAN RESOURCES.

☐ Committee Substitute for

**H.B. 896**

☐ A BILL TO BE ENTITLED AN ACT TO CHANGE THE LAW  
REGARDING STAFF/CHILD RATIOS FOR CHILD DAY CARE FACILITIES TO ADDRESS THE  
SPECIAL NEEDS OF LARGE CHILD DAY CARE HOMES.

REPORTED TO THE STANDING COMMITTEE ON

---

**RECOMMENDED ACTION:**

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a unfavorable recommendation as to proposed committee substitute bill, which changes the title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: \_\_\_\_\_

---

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY  
TO THE FLOOR OF THE HOUSE:

Rep. Julia Howard and Rep. Henry Aldridge for the Standing Committee on HUMAN  
RESOURCES.

*Julia C. Howard*  
*Henry Aldridge*

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☒ With a favorable report as to committee substitute bill, which changes the title, unfavorable as to original bill.
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.-

VISITOR REGISTRATION SHEET

Committee: HUMAN RESOURCES (FAMILY) Date: APR 23 1997

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Janice Fain	DHR / Div of Child Dev.
Kim McLamb	citizen Benson NC
Carrie Shuler	Smithfield, NC
Kim Judd	New Bern, NC
Sandra Martin	Liberty NC.



## HUMAN RESOURCES Subcommittee on Families

### Minutes

April 30, 1997

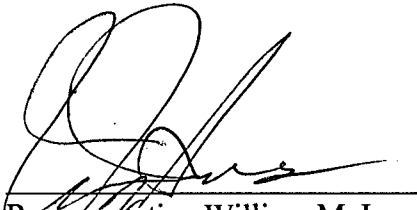
The HUMAN RESOURCES Subcommittee on Families met on Wednesday, April 30, 1997 at 1:00 PM in room 605 of the Legislative Office Building. The following members were present: Representatives Esposito, Watson, Easterling, Adams, Insko, McAllister, Nesbitt, Howard and Aldridge with Representative Ives (Chairman) presiding. For visitors information, see attached Visitor's Registration Sheet.

Representative Ives called the meeting to order at 1:06 PM and announced that HB 1102 Neighbor Child Care Law (see attachment #1 and #2) had been withdrawn by Representative Robert Brawley and that the committee would hear HB 1065 Parental Rights & Child Protect. Act. only. Representative Ives introduced the bill sponsor, Representative Don Davis and explained that after Representative Davis' presentation of the bill, speakers would be allowed to address the committee alternating pro and con. Representative Davis addressed the committee and said that HB 1065 was to create penalties for exposing minors without parental consent to sexually suggestive materials as outlined in the bill (see attachment #3). Representative Davis also said that he had had many calls from across the State to support HB1065 and asked the committee for their support. Representative Ives then introduced Ms. Linda Attarian, legal counsel to HUMAN RESOURCES to give a summary and legal opinion of the bill (see attachment #4). Ms. Attarian stated that there were questions concerning the constitutionality of the bill, such as 1) due process due to vagueness of terms and broad provisions and 2) 1<sup>st</sup> amendment rights due to lack of adequate procedures to restrict minors only.

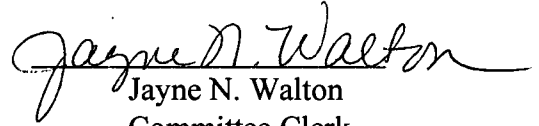
The members were allowed to ask questions and after much debate over who would be affected, the enforceability of the proposed law and definitions of the language in the bill, Representative Ives proceeded to allow the scheduled speakers to address the committee. Mr. Jeff Long of Fayetteville, NC spoke in support of the bill and explained the difficulties of raising children and protecting them from the materials outlined in the bill. Mr. Phil Barton of the Rowan Public Library spoke against the bill citing the 1<sup>st</sup> amendment, work load problems the bill would create and laws already on the books to deal with this subject. Mr. Allen Morris of Concerned Methodists in Fayetteville, NC then addressed the committee in support of the bill and read passages from literature that he found offensive and had recently checked out of the Public Library or had found in local stores to use as an example of what minors have access to. Ms. Deborah Ross of the ACLU spoke to the committee against the bill citing the bill as having broad provisions and vague terms and its' affect on 1<sup>st</sup> amendment rights.

Representative Ives thanked the speakers for their presentations and asked for a motion because of the time constraints on everyone with the crossover deadline. Representative

Insko moved for an unfavorable report for HB 1065. Representative Howard made a substitute motion to adjourn. The substitute motion carried and the meeting adjourned at 1:46 PM.

A handwritten signature in black ink, appearing to read 'W. Ives', written over a horizontal line.

Representative William M. Ives  
Chairman

A handwritten signature in black ink, appearing to read 'Jayne N. Walton', written over a horizontal line.

Jayne N. Walton  
Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1102

Short Title: Neighbor Child Care Law.

(Public)

---

Sponsors: Representatives Brawley; and Morris.

---

Referred to: Human Resources.

---

April 21, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE AN EXEMPTION FROM ALL CHILD DAY CARE  
3 HOME REGULATION FOR NEIGHBORS HELPING NEIGHBORS WITH  
4 CHILD CARE.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 110-86(4) reads as rewritten:

7 "(4) Child day care home. Any day care program or child care  
8 arrangement wherein any person not excluded in G.S. 110-86(2)  
9 provides day care on a regular basis of at least once per week for  
10 more than four hours per day for more than two children under 13  
11 years of age, but not to exceed a maximum of eight children at any  
12 one time, wherever operated, and whether or not operated for  
13 profit. Of the children present at any one time, no more than five  
14 children shall be preschool-aged, as defined in rules adopted by  
15 the Commission. The four hour limit applies regardless of the time  
16 of day and regardless of whether the same or different children  
17 attend. Cooperative arrangements among parents to provide care  
18 for their own children as a convenience rather than for  
19 employment are not included.

20 To determine whether a child care arrangement is a child day  
21 care home, all children shall be counted except the operator's own  
22 school-aged children and school-aged children who reside at the  
23 location of the day care home.

1                   Notwithstanding the above, no State registration or regulation is  
2                   required of neighbors who keep four or fewer children in their  
3                   homes, not including their own children, if the people whose  
4                   children they are keeping approve of the method used for the care  
5                   of their children, and if the neighbors keeping the children do not  
6                   apply for or receive any State assistance to enable them to  
7                   maintain their child caring."

8                   Section 2. This act is effective when it becomes law.



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April 8, 1997

**MEMORANDUM**

**TO:** House Human Resources Committee

**FROM:** John Young, Committee Staff

**RE:** **House Bill-1102**  
Representative Brawley

Article 7 of G.S. 110 requires mandatory licensing of child day care facilities. Child day care facilities are separated by capacity into the following categories which determines applicable requirements and standards.

These facility types are:

- (1) Large home
- (2) Small Center
- (3) Medium Center
- (4) Large Center

There is no requirement that child day care homes be licensed by the State but they must be registered.

House Bill 1102 would amend the definition of child day care home to exempt from registration or regulation, neighbors who keep four or fewer children in their home, not including their own children, provided the persons whose children are being kept approve of the child care methods. This exemption would exclude those keeping children under this exemption from applying for and receiving any State assistance.

## GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

## HOUSE BILL 1065

Short Title: Parental Rights &amp; Child Protect. Act.

(Public)

---

Sponsors: Representatives Davis; Aldridge, Buchanan, Decker, Sexton, and Starnes.

---

Referred to: Human Resources, if favorable, Judiciary I.

---

April 21, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT IT IS UNLAWFUL TO DISSEMINATE CERTAIN  
3 MATERIALS TO A MINOR WITHOUT WRITTEN PARENTAL CONSENT  
4 AND TO PROVIDE THAT CRIMINAL AND CIVIL PENALTIES MAY BE  
5 IMPOSED FOR SUCH VIOLATIONS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 14 of the General Statutes is amended by adding a  
8 new Article to read:

9 "ARTICLE 26B.

10 "Parental Rights and Child Protection.

11 "§ 14-202.15. Definitions.

12 The following definitions apply in this Article:

13 (1) Material. -- The term includes any type of literature, pamphlet,  
14 book, magazine, audio or visual tape recording, or other  
15 information in any form.

16 (2) Person. -- The term includes a person, group, association, agency,  
17 business, institution, governmental unit, or entity.

18 "§ 14-202.16. Unlawful dissemination of certain materials to a minor.

19 (a) It is unlawful for any person to disseminate to a minor without first obtaining  
20 the written permission of the minor's parent any material that the person knows, or  
21 reasonably should know, suggests, recommends, condones, or advocates, explicitly or  
22 implicitly, engaging in any of the following: sexual acts, unnatural sexual acts,  
23 alternate lifestyles, any other form of sexual activity outside the bonds of matrimony

1 between a lawfully married man and woman, or a violation of any provision of  
2 Chapter 14 of the General Statutes. A person who willfully violates this subsection is  
3 guilty of a Class I felony and is also civilly liable as provided by this section.

4 (b) The parent of a minor may file a civil action against a person who violates  
5 subsection (a) of this section. If the parent proves the violation, then, in addition to  
6 any other remedies in law, the parent shall be awarded triple damages. The parent  
7 shall also be awarded attorney fees and court costs.

8 (c) The parent of a minor, who alleges a violation of subsection (a) of this section  
9 in a civil action, upon proper verification of pleadings or by affidavit, sufficient to  
10 show unto the court the nature of the material and its dissemination, may apply to  
11 the court for a temporary injunction to prevent further improper dissemination and  
12 shall not be liable for any damages in law or equity, or any other manner, for failure  
13 to prevail at trial."

14 Section 2. This act becomes effective December 1, 1997, and applies to  
15 offenses committed on or after that date.



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April 22, 1997

**MEMORANDUM**

TO: House Committee on Human Resources

FROM: Sue Floyd, Staff

RE: HB 1065 - Parental Rights and Child Protect. Act. - Rep. Davis

HB 1065 creates Article 26B in Chapter 14 of the General Statutes making it a **Class I felony to disseminate to a minor**, without written permission of the parents, any **material that the person knows, or reasonably should know, suggests, recommends, condones, or advocates, explicitly or implicitly, engaging in any of the following:**

1. **Sexual acts.**
2. **Unnatural sexual acts.**
3. **Alternate lifestyles.**
4. **Any other form of sexual activity outside the bonds of matrimony between a lawfully married man and woman.**
5. **A violation of any provision of Chapter 14.**

**Material** is defined as any type of literature, pamphlet, book, magazine, audio or visual tape recording, or other information in any form. **Person** is defined as a person, group, association, agency, business, institution, governmental unit, or entity.

The **parent of a minor may file for civil damages** against a person who violates this section. If the violation is proven, the parent shall be **awarded triple damages in addition to other remedies in law plus attorney fees and court costs.**

The parent, upon proper verification of pleadings or by affidavit, **may apply for a temporary injunction to prevent further improper dissemination.** The parent **shall not be held liable** for failure to prevail at trial.

The bill becomes effective December 1, 1997, and applies to offenses committed on or after that date.

H1065-SMRI-01



VISITOR REGISTRATION SHEET

Committee: HUMAN RESOURCES (FAMILY)

Date: April 30, 1997

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Kevin Cherry

Rowan Public Library

Phillip Barton

Rowan Public Library Salisbury NC 28145

Debbie Collins

Harnett County Library

Jackie Beach

Craven-Pamlico Counties + Reg. Library

John Welch

Dept of Cultural Resources

Betty Ray McCain

DCR

Betsy Dupont

DCR

Don Atkins

DSS

Deborah Roro

SCSU

Roslyn Smith

We Child Care Coalition

Mal Stumpf

PRSS

Harriett Southeyland

DOA/YAIO

Phil Seckman

Rockingham County Schools - Library

Joye Lettg

Rockingham County Schools

Jeff Long

Farmville NC

Allen O. Thomas

Concerned Methodists Fayetteville, NC

Elizabeth Holm

NASW-NC Intern

Joe Lennon

Christian Action League of NC

McGillivray

NC AF

John Harrison

ALLIANCE

Martha Luevano

YAIO/DOA

Spencer Schmitt

NC-NCDC/Carroll w/ NC's kids

Brenda Summers

NC Equity

Beth Gray

MARAL

Paula Wolf

Covenant w/ NC's Children