

1997

**SENATE
CHILDREN & HUMAN
RESOURCES
COMMITTEE**

MINUTES

Senate Committee on Children & Human Resources
Minutes of Tuesday, July 22, 1997

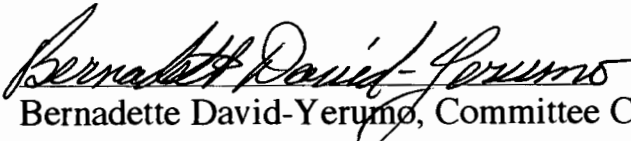
The Senate Committee on Children & Human Resources met at 2:30 p.m. on Tuesday July 22, 1997 in Room 414 of the State Legislative Office Building.

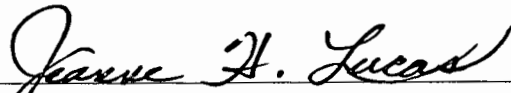
Thirteen (13) members of the Committee were present.

Senator Lucas, Chairman of the Committee, called the meeting to order.

House Bill 896 entitled Child Welfare Changes. was presented by , Senator Phillips. Senator Phillips explained the bill at length. After much discussion of the bill Senator Lucas suggested that the members of the committee take a day to consider all the proposed amendments. The members agreed that they would meet on Wednesday July 23, 1997.

The business being completed, the meeting was adjourned. The next scheduled meeting will be held on Wednesday July 23, 1997.


Bernadette David-Yerumo, Committee Clerk


Senator Jeanne H. Lucas, Chairman

2/16/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

3

HOUSE BILL 896
Committee Substitute Favorable 4/24/97
Third Edition Engrossed 4/30/97

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>0 to 12 months</u>	<u>5 preschool children plus 3 additional school aged children</u>
<u>12 to 24 months</u>	<u>6 preschool children plus 2 additional school aged children</u>

For child day care large homes, the following shall apply:

- a. There is no specific group size.
- b. When only one caregiver is required to meet the 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."

(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. The Commission shall adopt standards to establish minimum requirements for indoor equipment appropriate for the size facility being operated pursuant to G.S. 110-86(3). Space shall be available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as well as designated space for each child's personal belongings.

1 Each child day care facility that provides outdoor area
2 equipment and furnishings shall provide outdoor area equipment
3 and furnishings that are in good repair and are child size, sturdy,
4 and free of hazards that pose threat of serious injury to children
5 while engaged in normal supervised play activities. The
6 Commission shall adopt standards to establish minimum
7 requirements for equipment appropriate for the size facility being
8 operated pursuant to G.S. 110-86(3)."

9 Section 3. Section 2 of this act limits the authority of the Child Day Care
10 Commission to adopt rules to ensure that outdoor play area equipment and
11 furnishings at day care facilities are free of hazards that pose threat of serious injury
12 to children while engaged in normal supervised play activities. Accordingly, pursuant
13 to G.S. 150B-21.7, rules adopted by the Child Day Care Commission requiring
14 conformance to United States Consumer Product Safety Commission guidelines for
15 playground safety, including amendments thereto, are repealed.

16 Section 4. Except as otherwise provided in this act, this act is effective
17 when it becomes law.
18

7/22/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 896
Committee Substitute Favorable 4/24/97
Third Edition Engrossed 4/30/97
Proposed Senate Committee Substitute H896-PCS1444

Short Title: Child Welfare Changes.

(Public)

Sponsors:

Referred to:

April 8, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW PERTAINING TO THE CUSTODY AND
3 PLACEMENT OF JUVENILES TO ENHANCE THE STATE'S ABILITY TO
4 ENSURE THAT JUVENILES ARE PLACED IN A SAFE, PERMANENT HOME
5 WITHIN A REASONABLE PERIOD OF TIME, TO AUTHORIZE THE
6 DEPARTMENT OF HUMAN RESOURCES TO ASSUME CONTROL OF
7 DELIVERY OF COUNTY CHILD WELFARE SERVICES UNDER CERTAIN
8 CIRCUMSTANCES, AND TO ESTABLISH THE LEGISLATIVE STUDY
9 COMMISSION ON CHILDREN AND YOUTH.
10 The General Assembly of North Carolina enacts:
11 Section 1. G.S. 7A-289.32(3) reads as rewritten:
12 "(3) The parent has willfully left the child in foster care for more than
13 12 months without showing to the satisfaction of the court that
14 reasonable progress under the circumstances has been made within
15 12 months in correcting those conditions which led to the removal
16 of the child. ~~child or without showing positive response within 12~~
17 ~~months to the diligent efforts of a county Department of Social~~
18 ~~Services, a child-caring institution or licensed child-placing agency~~
19 ~~to encourage the parent to strengthen the parental relationship to~~
20 ~~the child or to make and follow through with constructive planning~~
21 ~~for the future of the child.~~ Provided, however, that no parental

rights shall be terminated for the sole reason that the parents are unable to care for the child on account of their poverty."

Section 2. G.S. 7A-289.32(7) reads as rewritten:

"(7) That the parent is incapable ~~as a result of mental retardation, mental illness, organic brain syndrome, or any other degenerative mental condition~~ of providing for the proper care and supervision of the child, such that the child is a dependent child within the meaning of G.S. 7A-517(13), and that there is a reasonable probability that such incapability will continue ~~throughout the minority of the child~~ for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition."

Section 3. G.S. 7A-517 is amended by adding the following new subdivision to read:

"(25a) 'Reasonable efforts'. -- The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time."

Section 4. G.S. 7A-577(h) reads as rewritten:

"(h) Any order authorizing the continued nonsecure custody of a juvenile who is alleged to be abused, neglected, or dependent shall include findings as to whether reasonable efforts have been made to prevent or eliminate the need for placement of the juvenile in custody and may provide for services or other efforts aimed at returning the juvenile ~~home promptly~~ promptly to a safe home. A finding that reasonable efforts have not been made ~~to prevent or eliminate the need for placement~~ shall not preclude the entry of an order authorizing continued nonsecure custody when the court finds that continued nonsecure custody is necessary for the protection of the juvenile. Where efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, the court may find that the placement of the juvenile in the absence of such efforts was reasonable. If the court finds that efforts to eliminate the need for placement of the juvenile in custody clearly would be futile or would be inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time, then the court shall specify in its order that reunification efforts are not required or order that reunification efforts cease."

Section 5. G.S. 7A-577 is amended by adding the following new subsection to read:

"(h1) At each hearing to determine the need for continued nonsecure custody, the court shall also inquire as to the identity and location of any missing parent. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent. The order may provide for specific efforts aimed at determining the identity and location of any missing parent."

1 Section 6. G.S. 7A-585 reads as rewritten:

2 **"§ 7A-585. Appointment of guardian.**

3 In any case when no parent appears in a hearing with the juvenile or when the
4 judge finds it would be in the best interest of the juvenile, the judge may appoint a
5 guardian of the person for the juvenile. The guardian shall operate under the
6 supervision of the court with or without bond and shall file only such reports as the
7 court shall require. The guardian shall have the care, custody, and control of the
8 juvenile or may arrange a suitable placement for ~~him~~ the juvenile and may represent
9 the juvenile in legal actions before any court. The guardian ~~shall also have authority~~
10 ~~to~~ may consent to certain actions on the part of the juvenile in place of the parent
11 including (i) marriage, (ii) enlisting in the armed forces, and (iii) ~~undergoing major~~
12 ~~surgery.~~ enrollment in school. The guardian may also consent to any necessary
13 remedial, psychological, medical, or surgical treatment for the juvenile. The authority
14 of the guardian shall continue until the guardianship is terminated by court order,
15 until the juvenile is emancipated pursuant to Article ~~56~~, 56 of this Chapter, or until
16 the juvenile reaches the age of majority."

17 Section 7. G.S. 7A-651(c) reads as rewritten:

18 "(c) Any order directing placement of a juvenile in foster care shall also contain:

- 19 (1) A finding that the juvenile's continuation in or return to his own
20 home would be contrary to the juvenile's best interest; and
21 (2) Findings as to whether reasonable efforts have been made to
22 prevent or eliminate the need for placement of the juvenile in
23 foster care. A finding that reasonable efforts were not made ~~to~~
24 ~~prevent or eliminate the need for placement~~ shall not preclude
25 entry of a dispositional order authorizing placement in foster care
26 when the court finds that such placement is needed for protection
27 of the juvenile. When efforts to prevent the need for the juvenile's
28 placement are precluded by an immediate threat of harm to the
29 juvenile, the court may find that placement of the juvenile in the
30 absence of such efforts is reasonable.

31 The order may provide for services or other efforts aimed at returning the juvenile
32 promptly to a safe home. If the court finds that efforts to eliminate the need for
33 placement of the juvenile in custody clearly would be futile or would be inconsistent
34 with the juvenile's safety and need for a safe, permanent home within a reasonable
35 period of time, the court shall specify in its order that reunification efforts are not
36 required or order that reunification efforts cease."

37 Section 8. G.S. 7A-657 reads as rewritten:

38 **"§ 7A-657. Review of custody order.**

39 (a) ~~In any case where the judge removes custody from a parent or person standing~~
40 ~~in loco parentis because of dependency, neglect or abuse, the juvenile shall not be~~
41 ~~returned to the parent or person standing in loco parentis unless the judge finds~~
42 ~~sufficient facts to show that the juvenile will receive proper care and supervision. In~~
43 any case where custody is removed from a parent, the judge shall conduct a review
44 within six months of the date the order was entered, shall conduct a second review

1 within six months after the first review, and shall conduct subsequent reviews at least
2 every year thereafter. The Director of Social Services shall make timely requests to
3 the clerk to calendar the case at a session of court scheduled for the hearing of
4 juvenile matters within six months of the date the order was entered. The Director
5 shall make timely requests for calendaring ~~of the yearly reviews thereafter~~. subsequent
6 reviews. The clerk shall give 15 days' notice of the review to the parent or the
7 person standing in loco parentis, the juvenile if 12 years of age or more, the guardian,
8 foster parent, custodian or agency with custody, the guardian ad litem, and any other
9 person the court may specify, indicating the court's impending review.

10 (b) Notwithstanding other provisions of this Article, the court may waive the
11 holding of review hearings required by subsection (a), may require written reports to
12 the court by the agency or person holding custody in lieu of review hearings, or order
13 that review hearings be held less often than every 12 months, if the court finds by
14 clear, cogent and convincing evidence that:

- 15 (1) The juvenile has been placed with a relative for a continuous
16 period of at least one year; and
- 17 (2) The placement is stable and continuation of the placement is in the
18 juvenile's best interest; and
- 19 (3) Neither the juvenile's best interests nor the rights of any party
20 require that review hearings be held every 12 months; and
- 21 (4) All parties are aware that the matter may be brought before the
22 court for review at any time by the filing of a motion for review or
23 on the court's own motion; and
- 24 (5) The court order has designated the relative as the juvenile's
25 permanent caretaker at the review at which these findings are
26 made.

27 The court may not waive or refuse to conduct a review hearing if a party files a
28 motion seeking the review.

29 (c) At every review hearing, the court shall consider information from the
30 Department of Social Services, the court counselor, the juvenile, the parent or person
31 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and
32 any public or private agency which will aid it in its review.

33 In each case the court shall consider the following ~~criteria~~: criteria and make
34 findings regarding those that are relevant:

- 35 (1) Services which have been offered to reunite the ~~family~~; family, or
36 whether efforts to reunite the family clearly would be futile or
37 inconsistent with the juvenile's safety and need for a safe,
38 permanent home within a reasonable period of time;
- 39 (2) Where the juvenile's return home is unlikely, the efforts which
40 have been made to evaluate or plan for other methods of care;
- 41 (3) Goals of the foster care placement and the appropriateness of the
42 foster care plan;

- 1 (4) A new foster care plan, if continuation of care is sought, that
2 addresses the role the current foster parent will play in the
3 planning for the juvenile;
4 (5) Reports on the placements the juvenile has had and any services
5 offered to the juvenile and the parent;
6 (6) When and if termination of parental rights should be considered;
7 (7) Any other criteria the court deems necessary.

8 (d) The judge, after making findings of fact, ~~shall have authority to~~ may appoint a
9 guardian of the person for the juvenile pursuant to G.S. 7A-585 or may make any
10 disposition authorized by G.S. 7A-647, including the authority to place the child in
11 the custody of either parent or any relative found by the court to be suitable and
12 found by the court to be in the best interest of the juvenile. If the juvenile is placed
13 in or remains in the custody of the department of social services, the court may
14 authorize the department to arrange and supervise a visitation plan. Except for such
15 visitation, the juvenile shall not be returned to the parent or person standing in loco
16 parentis without a hearing at which the court finds sufficient facts to show that the
17 juvenile will receive proper care and supervision. The court may enter an order
18 continuing the placement under review or providing for a different placement as is
19 deemed to be in the best interest of the juvenile. If at any time custody is restored to
20 a parent, the court shall be relieved of the duty to conduct periodic judicial reviews
21 of the placement.

22 (d1) At a hearing designated by the court, but at least within 12 months after the
23 juvenile's placement, a review hearing shall be held under this section and designated
24 as a permanency planning hearing. The purpose of the hearing shall be to develop a
25 plan to achieve a safe, permanent home for the juvenile within a reasonable period of
26 time. Notice of the hearing shall inform the parties of the purpose of the hearing. At
27 the conclusion of the hearing, if the juvenile is not returned home, the judge shall
28 make specific findings as to the best plan of care to achieve a safe, permanent home
29 for the juvenile within a reasonable period of time and shall enter an order consistent
30 with those findings.

31 (e) The provisions of subsections (b), (c), and (d) of G.S. 7A-651 shall apply to any
32 order entered under this section which continues the foster care placement of a
33 juvenile."

34 Section 9. Article 3 of Chapter 108A of the General Statutes is amended
35 by adding the following new section to read:

36 "**§ 108A-74. County department failure to provide services; State intervention in or**
37 **control of service delivery.**

38 (a) Notwithstanding any other provision of law to the contrary, the Secretary of
39 Human Resources may take action in accordance with this section to ensure the
40 delivery of child welfare services in a timely manner. As used in this section, the
41 terms:

42 (1) 'County department of social services' also means the consolidated
43 human services agency, whichever applies;

(2) 'County director of social services' also means the human services director, whichever applies; and

(3) 'County board of social services' also means the consolidated human services board, whichever applies.

(b) If the Secretary of Human Resources determines that a county department of social services is not providing child protective services, foster care services, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, then the Secretary, after providing written notification of intent to the county director of social services, to the chair of the county board of commissioners, and to the chair of the county board of social services, and after providing them with an opportunity to be heard, may intervene in the particular service or services in question. Intervention includes, but is not limited to, the following activities:

(1) Sending staff of the Department of Human Resources to the county department of social services to provide technical assistance and to monitor the services being provided;

(2) Establishing a corrective plan of action to correct inappropriate policies and procedures; and

(3) Advising county personnel as to appropriate policies and procedures.

If within 60 days of completion of the intervention activities, the Secretary finds that the county department of social services is not providing in a timely manner the particular service or services for which intervention was initiated, or has not demonstrated reasonable efforts to do so, the Secretary shall withhold State and federal child welfare services administrative funds until the particular service or services are provided in a timely manner.

(c) If the Secretary determines that a county department of social services is not providing child protective, foster care, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, and the failure to provide the services poses a substantial threat to the safety and welfare of children in the county who receive or are eligible to receive the services, then the Secretary, after providing written notification of intent to the chair of the county board of commissioners, to the chair of the county board of social services, and to the county director of social services, and after providing them with an opportunity to be heard, shall withhold funding for the particular service or services in question and shall ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of Human Resources.

(d) In the event that the Secretary assumes control of service delivery pursuant to subsection (c) of this section, the county director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as the powers pertain to the services in question. Upon assumption of control of service delivery, the Secretary may assign any of the powers and duties of the county director of social services to the Director of the Division of

1 Social Services of the Department of Human Resources or to a contractor as the
2 Secretary deems necessary and appropriate to continue the provision of the services
3 in the county.

4 (e) In the event the Secretary takes action under this section, the Department of
5 Human Resources shall, in conjunction with the county board of commissioners, the
6 county board of social services, and the county director of social services develop and
7 implement a corrective plan of action. The Department of Human Resources shall
8 also keep the chair of the county board of commissioners, the chair of the county
9 board of social services, and the county director of social services informed of any
10 ongoing concerns or problems with the delivery of the services in question.

11 (f) Upon the Secretary taking action pursuant to subsection (c) of this section,
12 county funding of the services in question shall continue and at no time during the
13 period of time that the Secretary is taking action shall a county withdraw funds
14 previously obligated or appropriated for the services. Upon the Secretary's
15 assumption of the control of service delivery, the county shall also pay the nonfederal
16 share of any additional cost that may be incurred to operate the services in question
17 at the level necessary to comply fully with State law and Social Services Commission
18 rules.

19 (g) During the period of time that the Secretary is taking action pursuant to
20 subsection (c) of this section, the Department of Human Resources shall work with
21 the county board of commissioners, the county board of social services, and the
22 county director of social services, to enable service delivery to be returned to the
23 county if and when the Secretary has determined that services can be provided by the
24 county in accordance with State law and applicable rules."

25 Section 10. Chapter 120 of the General Statutes is amended by adding
26 the following new Article to read:

27 "ARTICLE 24.

28 "The Legislative Study Commission on Children and Youth.

29 "§ 120-208. Commission created; purpose.

30 There is created the Legislative Study Commission on Children and Youth. The
31 purpose of the Commission is to study and evaluate the system of delivery of services
32 to children and youth and to make recommendations to improve service delivery to
33 meet present and future needs of the children and youth of this State. This study
34 shall be a continuing one and the evaluation ongoing.

35 "§ 120-209. Commission duties.

36 The Commission shall have the following duties:

37 (1) Study the needs of children and youth. This study shall include,
38 but is not limited to:

39 a. Determining the adequacy and appropriateness of services:
40 1. To children and youth receiving child welfare
41 services;
42 2. To children and youth in the juvenile court system;
43 and

- 1 3. Provided by the Division of Youth Services of the
2 Department of Human Resources.
- 3 b. Developing methods for identifying and providing services
4 to children and youth not receiving but in need of child
5 welfare services, children and youth at risk of entering the
6 juvenile court system, and children and youth exposed to
7 domestic violence situations.
- 8 c. Developing strategies for addressing the issues of school
9 dropout, teen suicide, and adolescent pregnancy.
- 10 d. Identifying and evaluating the impact on children and youth
11 of other economic and environmental issues.
- 12 e. Identifying obstacles to ensuring that children who are in
13 secure or nonsecure custody are placed in safe and
14 permanent homes within a reasonable period of time and
15 recommending strategies for overcoming those obstacles.
16 The Commission shall consider what, if anything, can be
17 done to expedite the adjudication and appeal of abuse and
18 neglect charges against parents so that decisions may be
19 made about the safe and permanent placement of their
20 children as quickly as possible.
- 21 (2) Evaluate problems associated with juveniles who are beyond the
22 disciplinary control of their parents, including juveniles who are
23 runaways, and develop solutions for addressing the problems of
24 those juveniles.
- 25 (3) Identify strategies for the development and funding of a
26 comprehensive statewide database relating to children and youth to
27 facilitate State agency planning for delivery of services to children
28 and youth.
- 29 (4) Conduct any other studies, evaluations, or assessments necessary
30 for the Commission to carry out its purpose.
- 31 **"§ 120-210. Commission membership; terms; compensation.**
32 **(a) The Commission shall consist of 20 members, as follows:**
- 33 (1) Nine members appointed by the Speaker of the House of
34 Representatives, as follows:
- 35 a. Four shall be members of the House of Representatives at
36 the time of their appointment,
- 37 b. One shall be the director of a local health department,
- 38 c. One shall be the director of a county department of social
39 services,
- 40 d. One shall be a representative of the general public who has
41 knowledge of issues relating to children and youth,
- 42 e. One shall be a licensed physician who is knowledgeable
43 about the health needs of children and youth, and

- 1 f. One shall be a chief district court judge recommended by
2 the Council of Chief District Judges.
- 3 (2) Nine members appointed by the President Pro Tempore of the
4 Senate, as follows:
- 5 a. Four shall be members of the Senate at the time of their
6 appointment.
- 7 b. One shall be the director of a mental health area authority,
8 c. One shall be a representative of the Association of County
9 Commissioners,
- 10 d. One shall be a representative of the general public who has
11 knowledge of issues relating to children and youth,
- 12 e. One shall be a licensed attorney whose practice includes the
13 representation of parents accused of criminal or civil abuse
14 or neglect, and
- 15 f. One shall be a chief district court judge recommended by
16 the Council of Chief District Judges.
- 17 (3) The following shall serve ex officio as nonvoting members of the
18 Commission:
- 19 a. The Secretary of Human Resources, or the Secretary's
20 designee, and
- 21 b. The State Superintendent of Public Instruction, or the
22 Superintendent's designee.
- 23 (b) Any vacancy shall be filled by the appointing authority who made the initial
24 appointment and by a person having the same qualification. Members' terms shall
25 last for two years. Members may be reappointed for two consecutive terms and may
26 be appointed again after having been off the Commission for two years.
- 27 (c) Commission members shall receive no salary as a result of serving on the
28 Commission but shall receive necessary subsistence and travel expenses in accordance
29 with G.S. 120-3.1, 138-5, and 138-6, as applicable.
- 30 **"§ 120-211. Commission meetings; public hearings; staff.**
- 31 (a) The Commission shall hold its initial meeting at the call of the Speaker of the
32 House of Representatives and the President Pro Tempore of the Senate. Subsequent
33 meetings shall be held upon the call of the Commission cochair. The Speaker of the
34 House of Representatives and the President Pro Tempore shall appoint a cochair
35 each from the membership of the Commission.
- 36 (b) The Commission may hold public hearings across the State to solicit public
37 input with respect to issues relating to children and youth.
- 38 (c) The Commission may contract for clerical or professional staff or for any other
39 services it may require in the course of its ongoing study. At the request of the
40 Commission, the Legislative Services Commission may supply members of the staff of
41 the Legislative Services Office and clerical assistance to the Commission as the
42 Legislative Services Commission considers appropriate. The Commission may, with
43 the approval of the Legislative Services Commission, meet in the State Legislative
44 Building or the Legislative Office Building.

1 "§ 120-212. Commission reports.

2 The Commission shall report to the General Assembly and to the Governor the
3 results of its study and recommendations. A written report shall be submitted to each
4 biennial session of the General Assembly at its convening.

5 "§ 120-213. Commission authority.

6 The Commission has the authority to obtain information and data from all State
7 officers, agents, agencies, and departments, while in discharge of its duties, pursuant
8 to G.S. 120-19, as if it were a committee of the General Assembly. The Commission
9 shall also have the authority to call witnesses, compel testimony relevant to any
10 matter properly before the Commission, and subpoena records and documents,
11 provided that documents containing confidential medical information shall have
12 identifying information removed. The provisions of G.S. 120-19.1 through G.S. 120-
13 19.4 shall apply to the proceedings of the Commission as if it were a joint committee
14 of the General Assembly. In addition to the other signatures required for the
15 issuance of a subpoena under this section, the subpoena shall also be signed by the
16 cochairs of the Commission. Any cost of providing information to the Commission
17 not covered by G.S. 120-19.3 may be reimbursed by the Commission from funds
18 appropriated to it for its continuing study."

19 Section 11. Sections 1 through 8 of this act become effective October 1,
20 1997, and apply to actions commenced on and after that date. Section 9 of this act
21 becomes effective January 1, 1998. The remainder of this act is effective when it
22 becomes law.



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(919) 733-2578

July 22, 1997

To: Senate Children and Human Resources Committee

From: Carolyn D. Johnson, Committee Counsel

Re: House 896 - Child Welfare Changes
Proposed Senate Committee Substitute

Section 1 deletes language in G.S. 7A-289.32(3) that makes it a ground to terminate parental rights if no positive response is shown within 12 months to efforts made to strengthen the parental relationship to the child or to follow through with constructive planning for the child.

Section 2 amends G.S. 7A-289.32(7) to add substance abuse as an incapacity that is a ground for terminating parental rights if there is reasonable probability that incapacity will continue for the **'foreseeable future'**. The amendment adds the language **'foreseeable future'** and deletes **'throughout the minority of the child'** and also adds the language **'any other similar cause or condition'** and deletes **'or any other degenerative mental condition'**.

Sections 3 amends G.S. 7A-517 to add a definition of **'reasonable efforts'**.

Sections 4 and 5 amend G.S. 7A-577 to provide that (1) an order authorizing continuing nonsecure custody may include services aimed at returning a juvenile to a **'safe home'**; (2) reunification efforts are not required or shall cease if the court finds those efforts would be futile or inconsistent with a juvenile's safety and need for a safe permanent home within a reasonable period of time; and (3) the court to inquire about a missing parent at each hearing for continued nonsecure custody.

Section 6 amends G.S. 7A-585 to give a juvenile's guardian the authority to consent to enrollment in school, or necessary remedial, psychological, medical or surgical treatment.

Section 7 amends G.S. 7A-651 to provide that an order directing placement of a juvenile in foster care may provide that reunification efforts are not required or shall cease if the court finds those efforts would be futile or inconsistent with a juvenile's safety and need for a safe permanent home within a reasonable period of time.

Section 8 amends G.S. 7A-657 to (1) require a second hearing within six months of the first hearing to review an order which removed a juvenile from parental custody; (2) require consideration of the futility of reunification efforts; (3) allow for the appointment of a guardian; (4) allow for the arrangement and supervision of visitation if a juvenile remains in custody; and (5) require a permanency planning hearing within 12 months of a juvenile's placement in custody.

Section 9 adds a new section to Chapter 108A of the General Statutes to provide for State intervention in or control of child welfare service delivery upon the failure of a county to so provide. If the Secretary of Human Resources determines a county department of social services is not providing services in accordance with applicable laws or rules, the Secretary may intervene in or ensure the provision of services in accordance with 108A-74(b) and (c). The Secretary is required to work in conjunction county commissioners, boards of social services and directors of social services to develop corrective plans of action in the event the Secretary takes such action. A county must continue its funding commitment in the event the Secretary takes action to ensure the provision of services. The Department is required to work with a county to assist the county's ability to resume the delivery of services if and when the Secretary determines a county is able to do so.

Section 10 establishes a new Legislative Study Commission on Children and Youth. The Commission would be charged with studying and evaluating the system of delivering services to children and youth and making recommendations for improvements thereon.

Sections 1 - 8 would become effective October 1, 1997 and apply to actions commenced on or after that date. Section 9 would become effective January 1, 1998. Section 10 would become effective when the act becomes law.

CASE BUILDING PYRAMID

*From
Rep. Gardner*

RESOLUTION

COURT REVIEW

COURT SUMMARY

TEAM DECISION

CONTINUING SERVICES

FIRST COURT REVIEW

COURT SUMMARY

TEAM DECISION MAKING

CONTINUING SERVICES

SERVICE AGREEMENT - BASED UPON
COURT ORDER

DISPOSITIONAL ORDER - GUIDANCE FOR
CONTINUING EFFORTS

ADJUDICATION ORDER - EFFORTS RECOGNIZED

PETITION FILED

TEAM DECISION TO INVOLVE COURT

REFERRAL TO & USE OF COMMUNITY RESOURCES

FAMILY RESPONSE TO SERVICE AGREEMENT

CASEWORK RECORDS - DOCUMENTATION OF EFFORTS

CASE PLAN - SERVICE AGREEMENT

FAMILY ASSESSMENT - PARENTS BEHAVIOR/EFFECT ON CHILDREN

INITIAL AGENCY INVOLVEMENT

FAMILY HISTORY AND LEVEL OF FUNCTIONING

*Bill :
6 months review
+ subsequent 6 mon
reviews at least
within 12 months
after placement - a
permanency planning
hearing*

*Bill
allows for
reasonable
efforts to be
closed*



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VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

J. Craig Green	DSO/HH (OHR)
C. Decker-Pickell	PRIVATE CITIZEN
Brenda Aron	" "
Hal W. Wright	North Carolina Association of the Deaf
Don Brown	NCPA & C & B
Suzanne Williams	BDW Assoc -
John Peters	Comm. on Substance Abuse
LANA DIAL	AOC - DIRECTOR'S OFFICE
Pam Seamans	United Way of NC / Covenant w/ NC's Children
Erica Schmidt	NCJCDC / Covenant w/ NC's Children
Helen Loma	Mecklenburg Co
Sally Marshall	N.C. Health Care Facilities Assn
Paula Wolf	Covenant with NC's Children
Martha Livelygood	XATO/DOR
Lois Wilson	NCA LTCF
Becky Strut	PPAP
Patrice Rauler	NAACC
PAT MAGNAN	92-
Linda Self	NC Med Society
Ann Jo Bain	Smith Anderson
Dan Dan	"

VISITOR REGISTRATION SHEET

Name of Committee

7/22/97
Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Maria Henson	The Charlotte Observer
Bonnie Summers	NC Equity
John Rustin	NCFRC
Mary Carmlin	Mecklenburg County
Debrah Koon	ALH
Dan Gerlach	NCRIC
Crystal Arltman	Onslow County DSS
Dawn Rochelle	Onslow Co DSS
John Burd	Onslow Co DSS
Lisa Givock	DHR - DSS
Jeff Hoke	Prevent Child Abuse
Elizabeth O'Connell	Prevent Child Abuse
Bob Schell	NCCDC
June Wimer	NCPA
JoAnn Lamm	NC DSS / DNL
Sara Anderson Mims	NC DSS / DHR
Bob Blum	AG's Office
Keith Jacob	A.G.'s office
T. Rose Pate	Salisbury, Pa
Mike Jensen	Salisbury, NC
Marion Hurd	NC Assn of Co Dirs of SS

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Date

7/22/97

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NAME

FIRM OR STATE AGENCY AND ADDRESS

Steve Shaba
Patrice ButlerJordan Price Wall Bay Jones
NUACC~~Franklin Freeman~~

Gov.'s office

Pam Deardorff

DOA

Vicki A. Hays

DOA/UAIO

Paula L. Wolf

Covenant with NC's Children

Megan Stanley

NC Child Advocacy Institute

Doug Brun

UNITED WAY OF NC / COVENANT W/ NC'S CHILDREN

Steve Miller

Jussellian ad lister
NCCFTF

Thomas Vance Bennett

Senate Committee on Children & Human Resources
Minutes of Wednesday, July 23, 1997

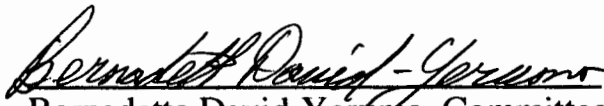
The Senate Committee on Children & Human Resources met at 11:00 a.m. on Wednesday July 23, 1997 in Room 423 of the State Legislative Office Building.

Twelve (12) members of the Committee were present.

Senator Lucas, Chairman of the Committee, called the meeting to order.

House Bill 896 entitled Child Welfare Changes. was presented by , Senator Phillips. Senator Phillips explained the bill at length again along with Kevin Fitzgerald. After much discussion of the bill and ten amendments, Senator Martin (of Guilford) moved that the bill be rolled into a committee substitute. The bill was unfavorable as to committee substitute bill 1 but favorable as to Senate Committee substitute bill.

The business being completed, the meeting was adjourned.


Bernadette David-Yeramo, Committee Clerk


Senator Jeanne H. Lucas, Chairman

New CS Bill

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 896
Committee Substitute Favorable 4/24/97
Third Edition Engrossed 4/30/97
Proposed Senate Committee Substitute H896-PCSA408

Short Title: Child Welfare Changes.

(Public)

Sponsors:

Referred to:

April 8, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW PERTAINING TO THE CUSTODY AND
3 PLACEMENT OF JUVENILES TO ENHANCE THE STATE'S ABILITY TO
4 ENSURE THAT JUVENILES ARE PLACED IN A SAFE, PERMANENT HOME
5 WITHIN A REASONABLE PERIOD OF TIME, TO AUTHORIZE THE
6 DEPARTMENT OF HUMAN RESOURCES TO ASSUME CONTROL OF
7 DELIVERY OF COUNTY CHILD WELFARE SERVICES UNDER CERTAIN
8 CIRCUMSTANCES, AND TO ESTABLISH THE LEGISLATIVE STUDY
9 COMMISSION ON CHILDREN AND YOUTH.
10 The General Assembly of North Carolina enacts:
11 Section 1. G.S. 7A-289.32(3) reads as rewritten:
12 "(3) The parent has willfully left the child in foster care for more than
13 12 months without showing to the satisfaction of the court that
14 reasonable progress under the circumstances has been made within
15 12 months in correcting those conditions which led to the removal
16 of the child, ~~child or without showing positive response within 12~~
17 ~~months to the diligent efforts of a county Department of Social~~
18 ~~Services, a child-caring institution or licensed child-placing agency~~
19 ~~to encourage the parent to strengthen the parental relationship to~~
20 ~~the child or to make and follow through with constructive planning~~
21 ~~for the future of the child.~~ Provided, however, that no parental

rights shall be terminated for the sole reason that the parents are unable to care for the child on account of their poverty."

Section 2. G.S. 7A-289.32(7) reads as rewritten:

"(7) That the parent is incapable ~~as a result of mental retardation, mental illness, organic brain syndrome, or any other degenerative mental condition~~ of providing for the proper care and supervision of the child, such that the child is a dependent child within the meaning of G.S. 7A-517(13), and that there is a reasonable probability that such incapability will continue ~~throughout the minority of the child~~ for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition."

Section 3. G.S. 7A-517 is amended by adding the following new subdivisions to read:

"(25a) 'Reasonable efforts'. -- The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time.

(25b) 'Safe home'. -- A home in which the child is not at substantial risk of physical or emotional abuse or neglect."

Section 4. G.S. 7A-576 reads as rewritten:

"§ 7A-576. Place of secure or nonsecure custody.

(a) A juvenile meeting the criteria set out in G.S. 7A-574, subsection (a), may be placed in nonsecure custody with the Department of Social Services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care or
- (2) A facility operated by the Department of Social Services or
- (3) Any other home or facility approved by the court and designated in the order.

In placing a juvenile in nonsecure custody under this section and under G.S. 7A-629 and G.S. 7A-651, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative. Prior to placement of a juvenile with a relative outside of this State, the placement must be in accordance with the Interstate Compact on the Placement of Children.

(b) A juvenile meeting the criteria set out in G.S. 7A-574(b) may be temporarily detained in an approved county detention home or a regional detention facility which shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be unlawful for a county or any unit of government to operate a juvenile detention

1 home unless the facility meets the standards promulgated by the Department of
2 Human Resources."

3 Section 5. G.S. 7A-577(h) reads as rewritten:

4 "(h) Any order authorizing the continued nonsecure custody of a juvenile who is
5 alleged to be abused, neglected, or dependent shall include findings as to whether
6 reasonable efforts have been made to prevent or eliminate the need for placement of
7 the juvenile in custody and may provide for services or other efforts aimed at
8 returning the juvenile ~~home promptly.~~ promptly to a safe home. A finding that
9 reasonable efforts have not been made ~~to prevent or eliminate the need for placement~~
10 shall not preclude the entry of an order authorizing continued nonsecure custody
11 when the court finds that continued nonsecure custody is necessary for the protection
12 of the juvenile. Where efforts to prevent the need for the juvenile's placement were
13 precluded by an immediate threat of harm to the juvenile, the court may find that the
14 placement of the juvenile in the absence of such efforts was reasonable. If the court
15 finds through written findings of fact that efforts to eliminate the need for placement
16 of the juvenile in custody clearly would be futile or would be inconsistent with the
17 juvenile's safety and need for a safe, permanent home within a reasonable period of
18 time, then the court shall specify in its order that reunification efforts are not
19 required or order that reunification efforts cease."

20 Section 6. G.S. 7A-577 is amended by adding the following new
21 subsection to read:

22 "(h1) At each hearing to determine the need for continued nonsecure custody, the
23 court shall:

- 24 (1) Inquire as to the identity and location of any missing parent. The
25 court shall include findings as to the efforts undertaken to locate
26 the missing parent and to serve that parent. The order may
27 provide for specific efforts aimed at determining the identity and
28 location of any missing parent; and
29 (2) Inquire as to whether a relative of the juvenile is willing and able
30 to provide proper care and supervision of the juvenile in a safe
31 home. If the court finds that the relative is willing and able to
32 provide proper care and supervision in a safe home, then the court
33 shall order temporary placement of the juvenile with the relative.
34 Prior to placement of a juvenile with a relative outside of this
35 State, the placement must be in accordance with the Interstate
36 Compact on the Placement of Children."

37 Section 7. G.S. 7A-585 reads as rewritten:

38 "**§ 7A-585. Appointment of guardian.**

39 In any case when no parent appears in a hearing with the juvenile or when the
40 judge finds it would be in the best interest of the juvenile, the judge may appoint a
41 guardian of the person for the juvenile. The guardian shall operate under the
42 supervision of the court with or without bond and shall file only such reports as the
43 court shall require. The guardian shall have the care, custody, and control of the
44 juvenile or may arrange a suitable placement for ~~him~~ the juvenile and may represent

1 the juvenile in legal actions before any court. The guardian ~~shall also have authority~~
2 ~~to~~ may consent to certain actions on the part of the juvenile in place of the parent
3 including (i) marriage, (ii) enlisting in the armed forces, and (iii) ~~undergoing major~~
4 ~~surgery.~~ enrollment in school. The guardian may also consent to any necessary
5 remedial, psychological, medical, or surgical treatment for the juvenile. The authority
6 of the guardian shall continue until the guardianship is terminated by court order,
7 until the juvenile is emancipated pursuant to Article 56, 56 of this Chapter, or until
8 the juvenile reaches the age of majority."

9 Section 8. G.S. 7A-651(c) reads as rewritten:

10 "(c) Any order directing placement of a juvenile in foster care shall also contain:

11 (1) A finding that the juvenile's continuation in or return to his own
12 home would be contrary to the juvenile's best interest; and

13 (2) Findings as to whether reasonable efforts have been made to
14 prevent or eliminate the need for placement of the juvenile in
15 foster care. A finding that reasonable efforts were not made ~~to~~
16 ~~prevent or eliminate the need for placement~~ shall not preclude
17 entry of a dispositional order authorizing placement in foster care
18 when the court finds that such placement is needed for protection
19 of the juvenile. When efforts to prevent the need for the juvenile's
20 placement are precluded by an immediate threat of harm to the
21 juvenile, the court may find that placement of the juvenile in the
22 absence of such efforts is reasonable.

23 The order may provide for services or other efforts aimed at returning the juvenile
24 promptly to a safe home. If the court finds through written findings of fact that
25 efforts to eliminate the need for placement of the juvenile in custody clearly would be
26 futile or would be inconsistent with the juvenile's safety and need for a safe,
27 permanent home within a reasonable period of time, the court shall specify in its
28 order that reunification efforts are not required or order that reunification efforts
29 cease."

30 Section 9. G.S. 7A-657 reads as rewritten:

31 "**§ 7A-657. Review of custody order.**

32 (a) ~~In any case where the judge removes custody from a parent or person standing~~
33 ~~in loco parentis because of dependency, neglect or abuse, the juvenile shall not be~~
34 ~~returned to the parent or person standing in loco parentis unless the judge finds~~
35 ~~sufficient facts to show that the juvenile will receive proper care and supervision.~~ In
36 any case where custody is removed from a parent, the judge shall conduct a review
37 within six months of the date the order was entered, shall conduct a second review
38 within six months after the first review, and shall conduct subsequent reviews at least
39 every year thereafter. The Director of Social Services shall make timely requests to
40 the clerk to calendar the case at a session of court scheduled for the hearing of
41 juvenile matters within six months of the date the order was entered. The Director
42 shall make timely requests for calendaring ~~of the yearly reviews thereafter.~~ subsequent
43 reviews. The clerk shall give 15 days' notice of the review to the parent or the
44 person standing in loco parentis, the juvenile if 12 years of age or more, the guardian,

1 foster parent, custodian or agency with custody, the guardian ad litem, and any other
2 person the court may specify, indicating the court's impending review.

3 (b) Notwithstanding other provisions of this Article, the court may waive the
4 holding of review hearings required by subsection (a), may require written reports to
5 the court by the agency or person holding custody in lieu of review hearings, or order
6 that review hearings be held less often than every 12 months, if the court finds by
7 clear, cogent and convincing evidence that:

- 8 (1) The juvenile has ~~been placed~~ resided with a relative or has been in
9 the custody of another suitable person for a ~~continuous~~ period of
10 at least one year; and
- 11 (2) The placement is stable and continuation of the placement is in the
12 juvenile's best interest; and
- 13 (3) Neither the juvenile's best interests nor the rights of any party
14 require that review hearings be held every 12 months; and
- 15 (4) All parties are aware that the matter may be brought before the
16 court for review at any time by the filing of a motion for review or
17 on the court's own motion; and
- 18 (5) The court order has designated the relative or other suitable
19 person as the juvenile's permanent caretaker or guardian of the
20 person. ~~at the review at which these findings are made.~~

21 The court may not waive or refuse to conduct a review hearing if a party files a
22 motion seeking the review.

23 (c) At every review hearing, the court shall consider information from the
24 Department of Social Services, the court counselor, the juvenile, the parent or person
25 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and
26 any public or private agency which will aid it in its review.

27 In each case the court shall consider the following ~~criteria:~~ criteria and make
28 written findings regarding those that are relevant:

- 29 (1) Services which have been offered to reunite the ~~family;~~ family, or
30 whether efforts to reunite the family clearly would be futile or
31 inconsistent with the juvenile's safety and need for a safe,
32 permanent home within a reasonable period of time;
- 33 (2) Where the juvenile's return home is unlikely, the efforts which
34 have been made to evaluate or plan for other methods of care;
- 35 (3) Goals of the foster care placement and the appropriateness of the
36 foster care plan;
- 37 (4) A new foster care plan, if continuation of care is sought, that
38 addresses the role the current foster parent will play in the
39 planning for the juvenile;
- 40 (5) Reports on the placements the juvenile has had and any services
41 offered to the juvenile and the parent;
- 42 (6) When and if termination of parental rights should be considered;
- 43 (7) Any other criteria the court deems necessary.

(d) The judge, after making findings of fact, ~~shall have authority to~~ may appoint a guardian of the person for the juvenile pursuant to G.S. 7A-585 or may make any disposition authorized by G.S. 7A-647, including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interest of the juvenile. If the juvenile is placed in or remains in the custody of the department of social services, the court may authorize the department to arrange and supervise a visitation plan. Except for such visitation, the juvenile shall not be returned to the parent or person standing in loco parentis without a hearing at which the court finds sufficient facts to show that the juvenile will receive proper care and supervision. The court may enter an order continuing the placement under review or providing for a different placement as is deemed to be in the best interest of the juvenile. If at any time custody is restored to a parent, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

(d1) At a hearing designated by the court, but at least within 12 months after the juvenile's placement, a review hearing shall be held under this section and designated as a permanency planning hearing. The purpose of the hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time. Notice of the hearing shall inform the parties of the purpose of the hearing. At the conclusion of the hearing, if the juvenile is not returned home, the judge shall make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time and shall enter an order consistent with those findings.

(e) The provisions of subsections (b), (c), and (d) of G.S. 7A-651 shall apply to any order entered under this section which continues the foster care placement of a juvenile."

Section 10. Article 3 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"§ 108A-74. County department failure to provide services; State intervention in or control of service delivery.

(a) Notwithstanding any other provision of law to the contrary, the Secretary of Human Resources may take action in accordance with this section to ensure the delivery of child welfare services in accordance with State laws and applicable rules. As used in this section, the terms:

- (1) 'County department of social services' also means the consolidated human services agency, whichever applies;
- (2) 'County director of social services' also means the human services director, whichever applies; and
- (3) 'County board of social services' also means the consolidated human services board, whichever applies.

(b) If the Secretary of Human Resources determines that a county department of social services is not providing child protective services, foster care services, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so,

1 then the Secretary, after providing written notification of intent to the county director
2 of social services, to the chair of the county board of commissioners, and to the chair
3 of the county board of social services, and after providing them with an opportunity
4 to be heard, may intervene in the particular service or services in question.
5 Intervention includes, but is not limited to, the following activities:

- 6 (1) Sending staff of the Department of Human Resources to the county
7 department of social services to provide technical assistance and to
8 monitor the services being provided;
- 9 (2) Establishing a corrective plan of action to correct inappropriate
10 policies and procedures; and
- 11 (3) Advising county personnel as to appropriate policies and
12 procedures.

13 If within 60 days of completion of the intervention activities, the Secretary finds
14 that the county department of social services is not providing in accordance with
15 State laws and applicable rules the particular service or services for which
16 intervention was initiated, or has not demonstrated reasonable efforts to do so, the
17 Secretary shall withhold State and federal child welfare services administrative funds
18 until the particular service or services are provided in accordance with State laws and
19 applicable rules.

20 (c) If the Secretary determines that a county department of social services is not
21 providing child protective, foster care, or adoption services in accordance with State
22 law and with applicable rules adopted by the Social Services Commission, or fails to
23 demonstrate reasonable efforts to do so, and the failure to provide the services poses
24 a substantial threat to the safety and welfare of children in the county who receive or
25 are eligible to receive the services, then the Secretary, after providing written
26 notification of intent to the chair of the county board of commissioners, to the chair
27 of the county board of social services, and to the county director of social services,
28 and after providing them with an opportunity to be heard, shall withhold funding for
29 the particular service or services in question and shall ensure the provision of these
30 services through contracts with public or private agencies or by direct operation by
31 the Department of Human Resources.

32 (d) In the event that the Secretary assumes control of service delivery pursuant to
33 subsection (c) of this section, the county director of social services shall be divested of
34 all service delivery powers conferred upon the director by G.S. 108A-14 and other
35 applicable State law as the powers pertain to the services in question. Upon
36 assumption of control of service delivery, the Secretary may assign any of the powers
37 and duties of the county director of social services to the Director of the Division of
38 Social Services of the Department of Human Resources or to a contractor as the
39 Secretary deems necessary and appropriate to continue the provision of the services
40 in the county.

41 (e) In the event the Secretary takes action under this section, the Department of
42 Human Resources shall, in conjunction with the county board of commissioners, the
43 county board of social services, and the county director of social services develop and
44 implement a corrective plan of action. The Department of Human Resources shall

1 also keep the chair of the county board of commissioners, the chair of the county
2 board of social services, and the county director of social services informed of any
3 ongoing concerns or problems with the delivery of the services in question.

4 (f) Upon the Secretary taking action pursuant to subsection (c) of this section,
5 county funding of the services in question shall continue and at no time during the
6 period of time that the Secretary is taking action shall a county withdraw funds
7 previously obligated or appropriated for the services. Upon the Secretary's
8 assumption of the control of service delivery, the county shall also pay the nonfederal
9 share of any additional cost that may be incurred to operate the services in question
10 at the level necessary to comply fully with State law and Social Services Commission
11 rules.

12 (g) During the period of time that the Secretary is taking action pursuant to
13 subsection (c) of this section, the Department of Human Resources shall work with
14 the county board of commissioners, the county board of social services, and the
15 county director of social services, to enable service delivery to be returned to the
16 county if and when the Secretary has determined that services can be provided by the
17 county in accordance with State law and applicable rules."

18 Section 11. Chapter 120 of the General Statutes is amended by adding
19 the following new Article to read:

20 "ARTICLE 24.

21 "The Legislative Study Commission on Children and Youth.

22 There is created the Legislative Study Commission on Children and Youth. The
23 purpose of the Commission is to study and evaluate the system of delivery of services
24 to children and youth and to make recommendations to improve service delivery to
25 meet present and future needs of the children and youth of this State. This study
26 shall be a continuing one and the evaluation ongoing.

27 "§ 120-209. Commission duties.

28 The Commission shall have the following duties:

29 (1) Study the needs of children and youth. This study shall include,
30 but is not limited to:

31 a. Determining the adequacy and appropriateness of services:

32 1. To children and youth receiving child welfare
33 services;

34 2. To children and youth in the juvenile court system;
35 and

36 3. Provided by the Division of Social Services and the
37 Division of Youth Services of the Department of
38 Human Resources.

39 b. Developing methods for identifying and providing services
40 to children and youth not receiving but in need of child
41 welfare services, children and youth at risk of entering the
42 juvenile court system, and children and youth exposed to
43 domestic violence situations.

- 1 c. Developing strategies for addressing the issues of school
2 dropout, teen suicide, and adolescent pregnancy.
3 d. Identifying and evaluating the impact on children and youth
4 of other economic and environmental issues.
5 e. Identifying obstacles to ensuring that children who are in
6 secure or nonsecure custody are placed in safe and
7 permanent homes within a reasonable period of time and
8 recommending strategies for overcoming those obstacles.
9 The Commission shall consider what, if anything, can be
10 done to expedite the adjudication and appeal of abuse and
11 neglect charges against parents so that decisions may be
12 made about the safe and permanent placement of their
13 children as quickly as possible.
14 (2) Evaluate problems associated with juveniles who are beyond the
15 disciplinary control of their parents, including juveniles who are
16 runaways, and develop solutions for addressing the problems of
17 those juveniles.
18 (3) Identify strategies for the development and funding of a
19 comprehensive statewide database relating to children and youth to
20 facilitate State agency planning for delivery of services to children
21 and youth.
22 (4) Conduct any other studies, evaluations, or assessments necessary
23 for the Commission to carry out its purpose.
24 **"§ 120-210. Commission membership; terms; compensation.**
25 **(a) The Commission shall consist of 21 members, as follows:**
26 (1) Nine members appointed by the Speaker of the House of
27 Representatives, as follows:
28 a. Four shall be members of the House of Representatives at
29 the time of their appointment,
30 b. One shall be the director of a local health department,
31 c. One shall be the director of a county department of social
32 services,
33 d. One shall be a representative of the general public who has
34 knowledge of issues relating to children and youth,
35 e. One shall be a licensed physician who is knowledgeable
36 about the health needs of children and youth, and
37 f. One shall be a chief district court judge recommended by
38 the Council of Chief District Judges.
39 (2) Nine members appointed by the President Pro Tempore of the
40 Senate, as follows:
41 a. Four shall be members of the Senate at the time of their
42 appointment,
43 b. One shall be the director of a mental health area authority,

- c. One shall be a representative of the Association of County Commissioners.
- d. One shall be a representative of the general public who has knowledge of issues relating to children and youth,
- e. One shall be a licensed attorney whose practice includes the representation of parents accused of criminal or civil abuse or neglect, and
- f. One shall be a chief district court judge recommended by the Council of Chief District Judges.

(3) The following shall serve ex officio as nonvoting members of the Commission:

- a. The Secretary of Human Resources, or the Secretary's designee,
- b. The State Superintendent of Public Instruction, or the Superintendent's designee, and
- c. The Secretary of Administration, or the Secretary's designee.

(b) Any vacancy shall be filled by the appointing authority who made the initial appointment and by a person having the same qualification. Members' terms shall last for two years. Members may be reappointed for two consecutive terms and may be appointed again after having been off the Commission for two years.

(c) Commission members shall receive no salary as a result of serving on the Commission but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

"§ 120-211. Commission meetings; public hearings; staff.

(a) The Commission shall hold its initial meeting at the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Subsequent meetings shall be held upon the call of the Commission cochair. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint a cochair each from the membership of the Commission.

(b) The Commission may hold public hearings across the State to solicit public input with respect to issues relating to children and youth.

(c) The Commission may contract for clerical or professional staff or for any other services it may require in the course of its ongoing study. At the request of the Commission, the Legislative Services Commission may supply members of the staff of the Legislative Services Office and clerical assistance to the Commission as the Legislative Services Commission considers appropriate. The Commission may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

"§ 120-212. Commission reports.

The Commission shall report to the General Assembly and to the Governor the results of its study and recommendations. A written report shall be submitted to each biennial session of the General Assembly at its convening.

"§ 120-213. Commission authority.

1 The Commission has the authority to obtain information and data from all State
2 officers, agents, agencies, and departments, while in discharge of its duties, pursuant
3 to G.S. 120-19, as if it were a committee of the General Assembly."

4 Section 12. Sections 1 through 9 of this act become effective October 1,
5 1997, and apply to actions commenced on and after that date. Section 10 of this act
6 becomes effective January 1, 1998. The remainder of this act is effective when it
7 becomes law.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

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HOUSE BILL 896
Committee Substitute Favorable 4/24/97
Third Edition Engrossed 4/30/97
Proposed Senate Committee Substitute H896-PCS1444

Short Title: Child Welfare Changes.

(Public)

Sponsors:

Referred to:

April 8, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW PERTAINING TO THE CUSTODY AND
3 PLACEMENT OF JUVENILES TO ENHANCE THE STATE'S ABILITY TO
4 ENSURE THAT JUVENILES ARE PLACED IN A SAFE, PERMANENT HOME
5 WITHIN A REASONABLE PERIOD OF TIME, TO AUTHORIZE THE
6 DEPARTMENT OF HUMAN RESOURCES TO ASSUME CONTROL OF
7 DELIVERY OF COUNTY CHILD WELFARE SERVICES UNDER CERTAIN
8 CIRCUMSTANCES, AND TO ESTABLISH THE LEGISLATIVE STUDY
9 COMMISSION ON CHILDREN AND YOUTH.

10 The General Assembly of North Carolina enacts:

11 Section 1. G.S. 7A-289.32(3) reads as rewritten:

12 "(3) The parent has willfully left the child in foster care for more than
13 12 months without showing to the satisfaction of the court that
14 reasonable progress under the circumstances has been made within
15 12 months in correcting those conditions which led to the removal
16 of the child. ~~child or without showing positive response within 12~~
17 ~~months to the diligent efforts of a county Department of Social~~
18 ~~Services, a child-caring institution or licensed child-placing agency~~
19 ~~to encourage the parent to strengthen the parental relationship to~~
20 ~~the child or to make and follow through with constructive planning~~
21 ~~for the future of the child.~~ Provided, however, that no parental

rights shall be terminated for the sole reason that the parents are unable to care for the child on account of their poverty."

Section 2. G.S. 7A-289.32(7) reads as rewritten:

"(7) That the parent is incapable ~~as a result of mental retardation, mental illness, organic brain syndrome, or any other degenerative mental condition~~ of providing for the proper care and supervision of the child, such that the child is a dependent child within the meaning of G.S. 7A-517(13), and that there is a reasonable probability that such incapability will continue ~~throughout the minority of the child.~~ for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition."

Section 3. G.S. 7A-517 is amended by adding the following new subdivision to read:

"(25a) 'Reasonable efforts'. -- The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time."

Section 4. G.S. 7A-577(h) reads as rewritten:

"(h) Any order authorizing the continued nonsecure custody of a juvenile who is alleged to be abused, neglected, or dependent shall include findings as to whether reasonable efforts have been made to prevent or eliminate the need for placement of the juvenile in custody and may provide for services or other efforts aimed at returning the juvenile ~~home promptly.~~ promptly to a safe home. A finding that reasonable efforts have not been made ~~to prevent or eliminate the need for placement~~ shall not preclude the entry of an order authorizing continued nonsecure custody when the court finds that continued nonsecure custody is necessary for the protection of the juvenile. Where efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, the court may find that the placement of the juvenile in the absence of such efforts was reasonable. If the court finds that efforts to eliminate the need for placement of the juvenile in custody clearly would be futile or would be inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time, then the court shall specify in its order that reunification efforts are not required or order that reunification efforts cease."

Section 5. G.S. 7A-577 is amended by adding the following new subsection to read:

"(h1) At each hearing to determine the need for continued nonsecure custody, the court shall also inquire as to the identity and location of any missing parent. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent. The order may provide for specific efforts aimed at determining the identity and location of any missing parent."

1 Section 6. G.S. 7A-585 reads as rewritten:

2 **"§ 7A-585. Appointment of guardian.**

3 In any case when no parent appears in a hearing with the juvenile or when the
4 judge finds it would be in the best interest of the juvenile, the judge may appoint a
5 guardian of the person for the juvenile. The guardian shall operate under the
6 supervision of the court with or without bond and shall file only such reports as the
7 court shall require. The guardian shall have the care, custody, and control of the
8 juvenile or may arrange a suitable placement for ~~him~~ the juvenile and may represent
9 the juvenile in legal actions before any court. The guardian ~~shall also have authority~~
10 ~~to~~ may consent to certain actions on the part of the juvenile in place of the parent
11 including (i) marriage, (ii) enlisting in the armed forces, and (iii) ~~undergoing major~~
12 ~~surgery.~~ enrollment in school. The guardian may also consent to any necessary
13 remedial, psychological, medical, or surgical treatment for the juvenile. The authority
14 of the guardian shall continue until the guardianship is terminated by court order,
15 until the juvenile is emancipated pursuant to Article ~~56~~, 56 of this Chapter, or until
16 the juvenile reaches the age of majority."

17 Section 7. G.S. 7A-651(c) reads as rewritten:

18 "(c) Any order directing placement of a juvenile in foster care shall also contain:

- 19 (1) A finding that the juvenile's continuation in or return to his own
20 home would be contrary to the juvenile's best interest; and
21 (2) Findings as to whether reasonable efforts have been made to
22 prevent or eliminate the need for placement of the juvenile in
23 foster care. A finding that reasonable efforts were not made ~~to~~
24 ~~prevent or eliminate the need for placement~~ shall not preclude
25 entry of a dispositional order authorizing placement in foster care
26 when the court finds that such placement is needed for protection
27 of the juvenile. When efforts to prevent the need for the juvenile's
28 placement are precluded by an immediate threat of harm to the
29 juvenile, the court may find that placement of the juvenile in the
30 absence of such efforts is reasonable.

31 The order may provide for services or other efforts aimed at returning the juvenile
32 promptly to a safe home. If the court finds that efforts to eliminate the need for
33 placement of the juvenile in custody clearly would be futile or would be inconsistent
34 with the juvenile's safety and need for a safe, permanent home within a reasonable
35 period of time, the court shall specify in its order that reunification efforts are not
36 required or order that reunification efforts cease."

37 Section 8. G.S. 7A-657 reads as rewritten:

38 **"§ 7A-657. Review of custody order.**

39 (a) ~~In any case where the judge removes custody from a parent or person standing~~
40 ~~in loco parentis because of dependency, neglect or abuse, the juvenile shall not be~~
41 ~~returned to the parent or person standing in loco parentis unless the judge finds~~
42 ~~sufficient facts to show that the juvenile will receive proper care and supervision. In~~
43 any case where custody is removed from a parent, the judge shall conduct a review
44 within six months of the date the order was entered, shall conduct a second review

1 within six months after the first review, and shall conduct subsequent reviews at least
2 every year thereafter. The Director of Social Services shall make timely requests to
3 the clerk to calendar the case at a session of court scheduled for the hearing of
4 juvenile matters within six months of the date the order was entered. The Director
5 shall make timely requests for calendaring ~~of the yearly reviews thereafter.~~ subsequent
6 reviews. The clerk shall give 15 days' notice of the review to the parent or the
7 person standing in loco parentis, the juvenile if 12 years of age or more, the guardian,
8 foster parent, custodian or agency with custody, the guardian ad litem, and any other
9 person the court may specify, indicating the court's impending review.

10 (b) Notwithstanding other provisions of this Article, the court may waive the
11 holding of review hearings required by subsection (a), may require written reports to
12 the court by the agency or person holding custody in lieu of review hearings, or order
13 that review hearings be held less often than every 12 months, if the court finds by
14 clear, cogent and convincing evidence that:

- 15 (1) The juvenile has been placed with a relative for a continuous
16 period of at least one year; and
- 17 (2) The placement is stable and continuation of the placement is in the
18 juvenile's best interest; and
- 19 (3) Neither the juvenile's best interests nor the rights of any party
20 require that review hearings be held every 12 months; and
- 21 (4) All parties are aware that the matter may be brought before the
22 court for review at any time by the filing of a motion for review or
23 on the court's own motion; and
- 24 (5) The court order has designated the relative as the juvenile's
25 permanent caretaker at the review at which these findings are
26 made.

27 The court may not waive or refuse to conduct a review hearing if a party files a
28 motion seeking the review.

29 (c) At every review hearing, the court shall consider information from the
30 Department of Social Services, the court counselor, the juvenile, the parent or person
31 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and
32 any public or private agency which will aid it in its review.

33 In each case the court shall consider the following ~~criteria:~~ criteria and make
34 findings regarding those that are relevant:

- 35 (1) Services which have been offered to reunite the ~~family;~~ family, or
36 whether efforts to reunite the family clearly would be futile or
37 inconsistent with the juvenile's safety and need for a safe,
38 permanent home within a reasonable period of time;
- 39 (2) Where the juvenile's return home is unlikely, the efforts which
40 have been made to evaluate or plan for other methods of care;
- 41 (3) Goals of the foster care placement and the appropriateness of the
42 foster care plan;

- 1 (4) A new foster care plan, if continuation of care is sought, that
- 2 addresses the role the current foster parent will play in the
- 3 planning for the juvenile;
- 4 (5) Reports on the placements the juvenile has had and any services
- 5 offered to the juvenile and the parent;
- 6 (6) When and if termination of parental rights should be considered;
- 7 (7) Any other criteria the court deems necessary.

8 (d) The judge, after making findings of fact, ~~shall have authority to~~ may appoint a
9 guardian of the person for the juvenile pursuant to G.S. 7A-585 or may make any
10 disposition authorized by G.S. 7A-647, including the authority to place the child in
11 the custody of either parent or any relative found by the court to be suitable and
12 found by the court to be in the best interest of the juvenile. If the juvenile is placed
13 in or remains in the custody of the department of social services, the court may
14 authorize the department to arrange and supervise a visitation plan. Except for such
15 visitation, the juvenile shall not be returned to the parent or person standing in loco
16 parentis without a hearing at which the court finds sufficient facts to show that the
17 juvenile will receive proper care and supervision. The court may enter an order
18 continuing the placement under review or providing for a different placement as is
19 deemed to be in the best interest of the juvenile. If at any time custody is restored to
20 a parent, the court shall be relieved of the duty to conduct periodic judicial reviews
21 of the placement.

22 (d1) At a hearing designated by the court, but at least within 12 months after the
23 juvenile's placement, a review hearing shall be held under this section and designated
24 as a permanency planning hearing. The purpose of the hearing shall be to develop a
25 plan to achieve a safe, permanent home for the juvenile within a reasonable period of
26 time. Notice of the hearing shall inform the parties of the purpose of the hearing. At
27 the conclusion of the hearing, if the juvenile is not returned home, the judge shall
28 make specific findings as to the best plan of care to achieve a safe, permanent home
29 for the juvenile within a reasonable period of time and shall enter an order consistent
30 with those findings.

31 (e) The provisions of subsections (b), (c), and (d) of G.S. 7A-651 shall apply to any
32 order entered under this section which continues the foster care placement of a
33 juvenile."

34 Section 9. Article 3 of Chapter 108A of the General Statutes is amended
35 by adding the following new section to read:

36 "**§ 108A-74. County department failure to provide services; State intervention in or**
37 **control of service delivery.**

38 (a) Notwithstanding any other provision of law to the contrary, the Secretary of
39 Human Resources may take action in accordance with this section to ensure the
40 delivery of child welfare services in a timely manner. As used in this section, the
41 terms:

- 42 (1) 'County department of social services' also means the consolidated
43 human services agency, whichever applies;

(2) 'County director of social services' also means the human services director, whichever applies; and

(3) 'County board of social services' also means the consolidated human services board, whichever applies.

(b) If the Secretary of Human Resources determines that a county department of social services is not providing child protective services, foster care services, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, then the Secretary, after providing written notification of intent to the county director of social services, to the chair of the county board of commissioners, and to the chair of the county board of social services, and after providing them with an opportunity to be heard, may intervene in the particular service or services in question. Intervention includes, but is not limited to, the following activities:

(1) Sending staff of the Department of Human Resources to the county department of social services to provide technical assistance and to monitor the services being provided;

(2) Establishing a corrective plan of action to correct inappropriate policies and procedures; and

(3) Advising county personnel as to appropriate policies and procedures.

If within 60 days of completion of the intervention activities, the Secretary finds that the county department of social services is not providing in a timely manner the particular service or services for which intervention was initiated, or has not demonstrated reasonable efforts to do so, the Secretary shall withhold State and federal child welfare services administrative funds until the particular service or services are provided in a timely manner.

(c) If the Secretary determines that a county department of social services is not providing child protective, foster care, or adoption services in accordance with State law and with applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable efforts to do so, and the failure to provide the services poses a substantial threat to the safety and welfare of children in the county who receive or are eligible to receive the services, then the Secretary, after providing written notification of intent to the chair of the county board of commissioners, to the chair of the county board of social services, and to the county director of social services, and after providing them with an opportunity to be heard, shall withhold funding for the particular service or services in question and shall ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of Human Resources.

(d) In the event that the Secretary assumes control of service delivery pursuant to subsection (c) of this section, the county director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as the powers pertain to the services in question. Upon assumption of control of service delivery, the Secretary may assign any of the powers and duties of the county director of social services to the Director of the Division of

1 Social Services of the Department of Human Resources or to a contractor as the
2 Secretary deems necessary and appropriate to continue the provision of the services
3 in the county.

4 (e) In the event the Secretary takes action under this section, the Department of
5 Human Resources shall, in conjunction with the county board of commissioners, the
6 county board of social services, and the county director of social services develop and
7 implement a corrective plan of action. The Department of Human Resources shall
8 also keep the chair of the county board of commissioners, the chair of the county
9 board of social services, and the county director of social services informed of any
10 ongoing concerns or problems with the delivery of the services in question.

11 (f) Upon the Secretary taking action pursuant to subsection (c) of this section,
12 county funding of the services in question shall continue and at no time during the
13 period of time that the Secretary is taking action shall a county withdraw funds
14 previously obligated or appropriated for the services. Upon the Secretary's
15 assumption of the control of service delivery, the county shall also pay the nonfederal
16 share of any additional cost that may be incurred to operate the services in question
17 at the level necessary to comply fully with State law and Social Services Commission
18 rules.

19 (g) During the period of time that the Secretary is taking action pursuant to
20 subsection (c) of this section, the Department of Human Resources shall work with
21 the county board of commissioners, the county board of social services, and the
22 county director of social services, to enable service delivery to be returned to the
23 county if and when the Secretary has determined that services can be provided by the
24 county in accordance with State law and applicable rules."

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32 to children and youth and to make recommendations to improve service delivery to
33 meet present and future needs of the children and youth of this State. This study
34 shall be a continuing one and the evaluation ongoing.

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40 1. To children and youth receiving child welfare
41 services;

42 2. To children and youth in the juvenile court system;
43 and

- 1 3. Provided by the Division of Youth Services of the
2 Department of Human Resources.
- 3 b. Developing methods for identifying and providing services
4 to children and youth not receiving but in need of child
5 welfare services, children and youth at risk of entering the
6 juvenile court system, and children and youth exposed to
7 domestic violence situations.
- 8 c. Developing strategies for addressing the issues of school
9 dropout, teen suicide, and adolescent pregnancy.
- 10 d. Identifying and evaluating the impact on children and youth
11 of other economic and environmental issues.
- 12 e. Identifying obstacles to ensuring that children who are in
13 secure or nonsecure custody are placed in safe and
14 permanent homes within a reasonable period of time and
15 recommending strategies for overcoming those obstacles.
16 The Commission shall consider what, if anything, can be
17 done to expedite the adjudication and appeal of abuse and
18 neglect charges against parents so that decisions may be
19 made about the safe and permanent placement of their
20 children as quickly as possible.
- 21 (2) Evaluate problems associated with juveniles who are beyond the
22 disciplinary control of their parents, including juveniles who are
23 runaways, and develop solutions for addressing the problems of
24 those juveniles.
- 25 (3) Identify strategies for the development and funding of a
26 comprehensive statewide database relating to children and youth to
27 facilitate State agency planning for delivery of services to children
28 and youth.
- 29 (4) Conduct any other studies, evaluations, or assessments necessary
30 for the Commission to carry out its purpose.
- 31 **"§ 120-210. Commission membership; terms; compensation.**
- 32 (a) The Commission shall consist of 20 members, as follows:
- 33 (1) Nine members appointed by the Speaker of the House of
34 Representatives, as follows:
- 35 a. Four shall be members of the House of Representatives at
36 the time of their appointment,
- 37 b. One shall be the director of a local health department,
- 38 c. One shall be the director of a county department of social
39 services,
- 40 d. One shall be a representative of the general public who has
41 knowledge of issues relating to children and youth,
- 42 e. One shall be a licensed physician who is knowledgeable
43 about the health needs of children and youth, and

- 1 f. One shall be a chief district court judge recommended by
2 the Council of Chief District Judges.
- 3 (2) Nine members appointed by the President Pro Tempore of the
4 Senate, as follows:
- 5 a. Four shall be members of the Senate at the time of their
6 appointment.
- 7 b. One shall be the director of a mental health area authority,
8 c. One shall be a representative of the Association of County
9 Commissioners.
- 10 d. One shall be a representative of the general public who has
11 knowledge of issues relating to children and youth.
- 12 e. One shall be a licensed attorney whose practice includes the
13 representation of parents accused of criminal or civil abuse
14 or neglect, and
- 15 f. One shall be a chief district court judge recommended by
16 the Council of Chief District Judges.
- 17 (3) The following shall serve ex officio as nonvoting members of the
18 Commission:
- 19 a. The Secretary of Human Resources, or the Secretary's
20 designee, and
- 21 b. The State Superintendent of Public Instruction, or the
22 Superintendent's designee.
- 23 (b) Any vacancy shall be filled by the appointing authority who made the initial
24 appointment and by a person having the same qualification. Members' terms shall
25 last for two years. Members may be reappointed for two consecutive terms and may
26 be appointed again after having been off the Commission for two years.
- 27 (c) Commission members shall receive no salary as a result of serving on the
28 Commission but shall receive necessary subsistence and travel expenses in accordance
29 with G.S. 120-3.1, 138-5, and 138-6, as applicable.
- 30 "§ 120-211. Commission meetings; public hearings; staff.
- 31 (a) The Commission shall hold its initial meeting at the call of the Speaker of the
32 House of Representatives and the President Pro Tempore of the Senate. Subsequent
33 meetings shall be held upon the call of the Commission cochair. The Speaker of the
34 House of Representatives and the President Pro Tempore shall appoint a cochair
35 each from the membership of the Commission.
- 36 (b) The Commission may hold public hearings across the State to solicit public
37 input with respect to issues relating to children and youth.
- 38 (c) The Commission may contract for clerical or professional staff or for any other
39 services it may require in the course of its ongoing study. At the request of the
40 Commission, the Legislative Services Commission may supply members of the staff of
41 the Legislative Services Office and clerical assistance to the Commission as the
42 Legislative Services Commission considers appropriate. The Commission may, with
43 the approval of the Legislative Services Commission, meet in the State Legislative
44 Building or the Legislative Office Building.

1 "§ 120-212. Commission reports.

2 The Commission shall report to the General Assembly and to the Governor the
3 results of its study and recommendations. A written report shall be submitted to each
4 biennial session of the General Assembly at its convening.

5 "§ 120-213. Commission authority.

6 The Commission has the authority to obtain information and data from all State
7 officers, agents, agencies, and departments, while in discharge of its duties, pursuant
8 to G.S. 120-19, as if it were a committee of the General Assembly. The Commission
9 shall also have the authority to call witnesses, compel testimony relevant to any
10 matter properly before the Commission, and subpoena records and documents,
11 provided that documents containing confidential medical information shall have
12 identifying information removed. The provisions of G.S. 120-19.1 through G.S. 120-
13 19.4 shall apply to the proceedings of the Commission as if it were a joint committee
14 of the General Assembly. In addition to the other signatures required for the
15 issuance of a subpoena under this section, the subpoena shall also be signed by the
16 cochairs of the Commission. Any cost of providing information to the Commission
17 not covered by G.S. 120-19.3 may be reimbursed by the Commission from funds
18 appropriated to it for its continuing study."

19 Section 11. Sections 1 through 8 of this act become effective October 1,
20 1997, and apply to actions commenced on and after that date. Section 9 of this act
21 becomes effective January 1, 1998. The remainder of this act is effective when it
22 becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ALN-200

Date _____, 1997

Comm. Sub. [yes] PCS1444
Amends Title []

Senator

- 1 moves to amend the bill on page 4, lines 15 and 16,
2 by striking through the text on those lines and inserting the
3 following: "The juvenile has resided with a relative or other
4 suitable person for a period of at least one year; and"; and
5
6 further moves to amend the bill on page 4, lines 24 thorough 26,
7 by striking through the text on those lines and inserting the
8 following: "The court order has designated the relative or other
9 suitable person as the juvenile's permanent caretaker or guardian of
10 the person."; and
11
12 further moves to amend the bill on page 5, line 40,
13 by deleting the words "a timely manner." and substituting the words
14 "accordance with State laws and applicable rules."; and
15
16 further moves to the bill on page 6, lines 22 and 26
17 by deleting the words "a timely manner" and substituting the words
18 "accordance with State laws and applicable rules" wherever they
19 appear on those lines.
20
21
22

SIGNED [Signature]
Amendment Sponsor

SIGNED [Signature]
Committee Chair if Senate Committee Amendment

ADOPTED X

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ARK-001

Date _____, 1997

Comm. Sub. [Yes]
Amends Title []
Forth Edition

Senator Wellons

1 moves to amend the bill on page 5, lines 33 and 34,
2 by inserting between those lines a new sections to read:
3 " Section 8A. G.S. 7A-584 reads as rewritten:
4 '\$7A-584. Juvenile's right to counsel; presumption of indigence.
5 (a) A juvenile alleged to be within the jurisdiction of the court
6 has the right to be represented by counsel in all proceedings. In any
7 proceeding in which delinquency is alleged, the judge shall appoint
8 counsel unless counsel is retained for the juvenile. Upon the filing
9 of a petition to terminate parental rights, the judge shall appoint
10 counsel for the juvenile.
11 (b) All juveniles shall be conclusively presumed to be indigent, and
12 it shall not be necessary for the court to receive from any juvenile
13 an affidavit of indigency.'
14 Section 8B. G.S. 7A-588 reads as rewritten:
15 '\$ 7A-588. Payment of court appointed attorney or guardian ad
16 litem.
17 An attorney or guardian ad litem appointed pursuant to G.S.
18 7A-584, 7A-586 or 7A-587 of this ~~Article~~, Article or pursuant to
19 any other provision of the Juvenile Code, ~~or pursuant to G.S.~~
20 ~~7A-289.23~~ Code shall be paid a reasonable fee fixed by the court
21 in the same manner as fees for attorneys appointed in cases of
22 indigency or by direct engagement for specialized guardian ad
23 litem services through the Administrative Office of the Courts.
24 An attorney appointed for a juvenile in a proceeding to terminate
25 parental rights shall be paid a reasonable fee fixed by the court



NORTH CAROLINA GENERAL ASSEMBLY
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House Bill 896

AMENDMENT NO. _____
(to be filled in by
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H896-ARK-001

1 in the same manner as fees for attorneys appointed in cases of
2 indigency. The judge may require payment of the attorney or
3 guardian ad litem fee from a person other than the juvenile as
4 provided in G.S. 7A-450.1, 7A-450.2 and 7A-450.3. In no event
5 shall the parent or guardian be required to pay the fees for an
6 appointed attorney or guardian ad litem in an abuse, neglect, or
7 dependency proceeding unless the juvenile has been adjudicated to
8 be abused, neglected, or dependent, or, in a proceeding to
9 terminate parental rights, unless the parent's rights have been
10 terminated. A person who does not comply with the court's order
11 of payment may be punished for contempt as provided in G.S.
12 5A-21."

SIGNED _____
Amendment Sponsor

SIGNED Leanne Lucas
Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED X _____

TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 896

DATE 7/23/97

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE PCS 1444

(to be filled in by
Principal Clerk)

Rep.) Forrester
Sen.) _____

1 moves to amend the bill on page 10, line 8

2 () WHICH CHANGES THE TITLE

3 by deleting the phrase "The Commission";
4 and on page 10, lines 9-18,
5 by deleting those lines.

6 _____

7 _____

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18 _____

19 _____

SIGNED

Joanne Lucas

ADOPTED +

FAILED _____

TABLED _____

4



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

H896-ARK-004

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

Date _____, 1997

Comm. Sub. [Yes]
Amends Title []
Forth Edition

Senator Foxx

- 1 moves to amend the bill on page 8, lines 1 and 2,
2 by rewriting those lines to read:
3 " 3. Provided by the Division of Social Services and the
4 Division of Youth Services of the Department of Human
5 Resources."

SIGNED Virginia Fox
Amendment Sponsor

SIGNED Joanne Lucas
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____



*with
Drawn*

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ARK-003

Date _____, 1997

Comm. Sub. [Yes]
Amends Title []
Forth Edition

Senator Foxx

- 1 moves to amend the bill on page 1, line 9,
- 2 by rewriting that line to read:
- 3 "COMMISSION ON CHILDREN AND YOUTH, AND TO DIRECT A STUDY OF UNIFORM
- 4 PROCEDURES FOR AREA MENTAL HEALTH AUTHORITY CHILD PLACING
- 5 SERVICES."; and
- 6
- 7 on page 10, lines 18 and 19, by inserting between those lines a new
- 8 section to read as follows:
- 9 " Section 10A. The Secretary of the Department of Human
- 10 Resources shall study the feasibility of establishing and
- 11 implementing uniform procedures for Area Mental Health Authorities
- 12 to accredit and contract with private child placing agencies. The
- 13 Secretary shall report the findings and recommendations to the 1997
- 14 General Assembly on or before May 1, 1998."

SIGNED *Virginia Foxx*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ARK-002

Date _____, 1997

Comm. Sub. [Yes]
Amends Title []
Forth Edition

Senator Foxx

1 moves to amend the bill on page 8, line 32,
2 by deleting the number "20" and substituting the number "21"; and
3
4 on page 9, line 20, by deleting the word "and"; and
5
6 on page 9 line 22, by rewriting that line to read:
7 " Superintendent's designee, and"; and
8
9 on page 9, lines 22 and 23, by inserting between those lines the
10 following subsection to read:
11 "c. The Secretary of Administration, or the
12 "Secretary's designee."

SIGNED Virginia Foxx
Amendment Sponsor

SIGNED Leanne Lucas
Committee Chair if Senate Committee Amendment

ADOPTED X FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 896

DATE 7/23/97

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Kinnaird
Sen.) _____

1 moves to amend the bill on page 2 between, line 20 and 21

2 () WHICH CHANGES THE TITLE

3 by inserting a new section to read:

4 "Section 3A. G.S. 7A-517 is amended by
5 adding the following new subdivision
6 to read:

7 "(26a) "Safe Home" -- a home in which
8 the child is not at ^{substantial} risk of physical
9 or emotional abuse or neglect."

10 _____

11 _____

12 _____

13 _____

14 _____

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16 _____

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19 _____

SIGNED *Joanne Lucas*

ADOPTED X FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ALN-300

Date _____, 1997

Comm. Sub. [yes] PCS1444
Amends Title []

Senator _____

1 moves to amend the bill on page 2, lines 37 and 38
2 by adding between the lines, the following:

3 Section 4.1. G.S. 7A-576 reads as rewritten:

4 "**§ 7A-576. Place of secure or nonsecure custody.**

5 (a) A juvenile meeting the criteria set out in G.S. 7A-574,
6 subsection (a), may be placed in nonsecure custody with the
7 Department of Social Services or a person designated in the order
8 for temporary residential placement in:

- 9 (1) A licensed foster home or a home otherwise authorized
10 by law to provide such care or
11 (2) A facility operated by the Department of Social
12 Services or
13 (3) Any other home or facility approved by the court and
14 designated in the order.

15 In placing a juvenile in nonsecure custody under this section and
16 under G.S. 7A-629 and G.S. 7A-651, the court shall first consider
17 whether a relative of the juvenile is willing and able to provide
18 proper care and supervision of the juvenile in a safe home. If the
19 court finds that the relative is willing and able to provide proper
20 care and supervision in a safe home, then the court shall order
21 placement of the juvenile with the relative. Prior to placement of
22 a juvenile with a relative outside of this State, the placement must
23 be in accordance with the Interstate Compact on the Placement of
24 Children.

25 (b) A juvenile meeting the criteria set out in G.S. 7A-574(b) may
26 be temporarily detained in an approved county detention home or a
27 regional detention facility which shall be separate from any jail,
28 lockup, prison, or other adult penal institution. It shall be
29 unlawful for a county or any unit of government to operate a
30 juvenile detention home unless the facility meets the standards
31 promulgated by the Department of Human Resources."; and

32
33 further moves to amend the bill on page 2, lines 40 through 44,



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 2 of ____

H896-ALN-300

- 1 by rewriting the lines to read:
2 "(h1) At each hearing to determine the need for continued nonsecure
3 custody, the court shall:
4 (1) Inquire as to the identity and location of any missing
5 parent. The court shall include findings as to the
6 efforts undertaken to locate the missing parent and to
7 serve that parent. The order may provide for specific
8 efforts aimed at determining the identity and location
9 of any missing parent; and
10 (2) Inquire as to whether a relative of the juvenile is
11 willing and able to provide proper care and
12 supervision of the juvenile in a safe home. If the
13 court finds that the relative is willing and able to
14 provide proper care and supervision in a safe home,
15 then the court shall order temporary placement of the
16 juvenile with the relative. Prior to placement of a
17 juvenile with a relative outside of this State, the
18 placement must be in accordance with the Interstate
19 Compact on the Placement of Children.'".
20
21

SIGNED *Jr Ken*
Amendment Sponsor

SIGNED *Deanne Lucas*
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H896-ALN-300

Date _____, 1997

Comm. Sub. [yes] PCS1444
Amends Title []

Senator Kerr

1 moves to amend the bill on page 2, lines 37 and 38
2 by adding between the lines, the following:

3 Section 4.1. G.S. 7A-576 reads as rewritten:
4 "\$ 7A-576. Place of secure or nonsecure custody.

5 (a) A juvenile meeting the criteria set out in G.S. 7A-574,
6 subsection (a), may be placed in nonsecure custody with the
7 Department of Social Services or a person designated in the order
8 for temporary residential placement in:

- 9 (1) A licensed foster home or a home otherwise authorized
10 by law to provide such care or
11 (2) A facility operated by the Department of Social
12 Services or
13 (3) Any other home or facility approved by the court and
14 designated in the order.

15 In placing a juvenile in nonsecure custody under this section and
16 under G.S. 7A-629 and G.S. 7A-651, the court shall first consider
17 whether a relative of the juvenile is willing and able to provide
18 proper care and supervision of the juvenile in a safe home. If the
19 court finds that the relative is willing and able to provide proper
20 care and supervision in a safe home, then the court shall order
21 placement of the juvenile with the relative. Prior to placement of
22 a juvenile with a relative outside of this State, the placement must
23 be in accordance with the Interstate Compact on the Placement of
24 Children.

25 (b) A juvenile meeting the criteria set out in G.S. 7A-574(b) may
26 be temporarily detained in an approved county detention home or a
27 regional detention facility which shall be separate from any jail,
28 lockup, prison, or other adult penal institution. It shall be
29 unlawful for a county or any unit of government to operate a
30 juvenile detention home unless the facility meets the standards
31 promulgated by the Department of Human Resources."; and
32

33 further moves to amend the bill on page 2, lines 40 through 44,



NORTH CAROLINA GENERAL ASSEMBLY
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H896-ALN-300

1 by rewriting the lines to read:

2 "(h1) At each hearing to determine the need for continued nonsecure
3 custody, the court shall:

4 (1) Inquire as to the identity and location of any missing
5 parent. The court shall include findings as to the
6 efforts undertaken to locate the missing parent and to
7 serve that parent. The order may provide for specific
8 efforts aimed at determining the identity and location
9 of any missing parent; and

10 (2) Inquire as to whether a relative of the juvenile is
11 willing and able to provide proper care and
12 supervision of the juvenile in a safe home. If the
13 court finds that the relative is willing and able to
14 provide proper care and supervision in a safe home,
15 then the court shall order temporary placement of the
16 juvenile with the relative. Prior to placement of a
17 juvenile with a relative outside of this State, the
18 placement must be in accordance with the Interstate
19 Compact on the Placement of Children.'".
20
21

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896

AMENDMENT NO. _____
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Principal Clerk)
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H896-ALN-300

Date _____, 1997

Comm. Sub. [yes] PCS1444
Amends Title []

Senator _____

1 moves to amend the bill on page 2, lines 37 and 38
2 by adding between the lines, the following:

3 Section 4.1. G.S. 7A-576 reads as rewritten:

4 "§ 7A-576. Place of secure or nonsecure custody.

5 (a) A juvenile meeting the criteria set out in G.S. 7A-574,
6 subsection (a), may be placed in nonsecure custody with the
7 Department of Social Services or a person designated in the order
8 for temporary residential placement in:

- 9 (1) A licensed foster home or a home otherwise authorized
10 by law to provide such care or
11 (2) A facility operated by the Department of Social
12 Services or
13 (3) Any other home or facility approved by the court and
14 designated in the order.

15 In placing a juvenile in nonsecure custody under this section and
16 under G.S. 7A-629 and G.S. 7A-651, the court shall first consider
17 whether a relative of the juvenile is willing and able to provide
18 proper care and supervision of the juvenile in a safe home. If the
19 court finds that the relative is willing and able to provide proper
20 care and supervision in a safe home, then the court shall order
21 placement of the juvenile with the relative. Prior to placement of
22 a juvenile with a relative outside of this State, the placement must
23 be in accordance with the Interstate Compact on the Placement of
24 Children.

25 (b) A juvenile meeting the criteria set out in G.S. 7A-574(b) may
26 be temporarily detained in an approved county detention home or a
27 regional detention facility which shall be separate from any jail,
28 lockup, prison, or other adult penal institution. It shall be
29 unlawful for a county or any unit of government to operate a
30 juvenile detention home unless the facility meets the standards
31 promulgated by the Department of Human Resources."; and

32
33 further moves to amend the bill on page 2, lines 40 through 44,



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
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AMENDMENT NO. _____
(to be filled in by
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1 by rewriting the lines to read:

2 "(h1) At each hearing to determine the need for continued nonsecure
3 custody, the court shall:

4 (1) Inquire as to the identity and location of any missing
5 parent. The court shall include findings as to the
6 efforts undertaken to locate the missing parent and to
7 serve that parent. The order may provide for specific
8 efforts aimed at determining the identity and location
9 of any missing parent; and

10 (2) Inquire as to whether a relative of the juvenile is
11 willing and able to provide proper care and
12 supervision of the juvenile in a safe home. If the
13 court finds that the relative is willing and able to
14 provide proper care and supervision in a safe home,
15 then the court shall order temporary placement of the
16 juvenile with the relative. Prior to placement of a
17 juvenile with a relative outside of this State, the
18 placement must be in accordance with the Interstate
19 Compact on the Placement of Children.'"
20
21

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

#9

EDITION No. _____

H. B. No. 896DATE 7/23/97

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE PCS 1444(to be filled in by
Principal Clerk)Rep.) Bill Martin
Sen.) _____

- 1 moves to amend the bill on page 2, line 33 & p. 3, line 32
2 () WHICH CHANGES THE TITLE
3 by inserting between the ^{word} "finds" and the
4 word "that" the phrase "through
5 written findings of fact"; and
6
7 on page 4, line 34 by inserting before
8 The word "findings" the word
9 "written".
10
11
12
13
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SIGNED

Jeanne Lucas

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

#9

EDITION No. _____

H. B. No. 896DATE 7/23/97

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)COMMITTEE SUBSTITUTE PCS 1444Rep.) Bill Martin
Sen.) _____

- 1 moves to amend the bill on page 2, line 33 & p. 3, line 32
- 2 () WHICH CHANGES THE TITLE ^{word}
- 3 by inserting between the "finds" and the
- 4 word "that" the phrase, "through
- 5 written findings of fact"; and
- 6
- 7 or page 4, line 34 by inserting before
- 8 The word "findings" the word
- 9 "written".

SIGNED MM

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

#9

EDITION No. _____

H. B. No. 896

DATE

7/23/97

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE

PCS 1444

Rep.)

Bill Martin

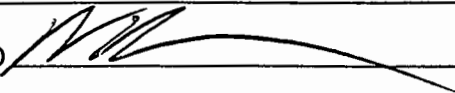
Sen.)

1 moves to amend the bill on page 2, line 33 ^{word} & p. 3, line 32

2 () WHICH CHANGES THE TITLE

3 by inserting between the "finds" and the
4 word "that" the phrase, "through
5 written findings of fact"; and
67 on page 4, line 34 by inserting before
8 The word "findings" the word
9 "written".
10
11
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13
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SIGNED



ADOPTED _____

FAILED _____

TABLED _____

**SUMMARY OF S.511,
THE SAFE ADOPTIONS AND FAMILY ENVIRONMENTS (S.A.F.E.) ACT***

Enhances the Safety of Children At Home and In Out-Of-Home Care

- **Safety in the Home.** Clarifies that a child's health and safety are paramount concerns in making decisions about the removal of a child from and the child's return to his home and that there are situations where reunification efforts are not required because to do so would endanger the child's health or safety; and requires states to specify in state law those situations (such as those illustrated) where efforts to reunify are not reasonable and are not required. (Sec. 102)**
- **Safety While Out-of-the Home.** Clarifies the importance of safety in decisions around case planning and case reviews for children in foster care. (Sec. 103)
- **Multi-agency Child Death Review Teams.** Requires states to establish within five years statewide multi-agency child death review teams to explore ways to prevent fatalities in the future. A Federal Child Death Review Team also is established. (Sec. 104)
- **Background Checks.** Requires criminal and child abuse record checks for final approval of foster parents, group care staff, and adoptive parents to increase the safety of children in out-of-home placements and with adoptive families. (Sec. 205)

Provides Incentives for Adoption and Other Permanency Options

- **Reasonable Efforts toward Permanence.** Requires that when the goal for a child is adoption or another permanent option that states must make reasonable efforts to place the child in a timely manner with an adoptive family or in another permanent home and to finalize the relationship and must document in the child's case plan specific recruitment efforts and other steps taken to achieve permanence for the child. (Sec. 301)**
- **Permanency Planning Hearing.** Establishes a permanency planning hearing within 12 months of a child's placement, rather than within 18 months as in current law, at which time there must be a determination whether and when a child will be returned home, referred for termination of parental rights, placed for adoption or referred for legal guardianship or some other planned permanent living arrangement. (Sec. 302)**
- **Increased Resources for Services.** Gives states increased flexibility to use foster care funds (currently only used for room and board) for substance abuse, mental health, and domestic violence services, counseling and transportation for children and parents/primary care givers to promote prompt permanency decisions. Services can be provided for up to one year from the date the child is removed from his home. (Sec. 304)
- **Expanded Adoption Assistance.** Expands eligibility for federally-funded adoption subsidies to all children with physical, mental or emotional disabilities or other special needs. This change eliminates the inequity that exists in current law and expedites adoptions by eliminating the need for costly eligibility determinations about the financial status of a child's parents at the time the child entered foster care, even though all parental rights to the child have been terminated in order to make the child free for adoption. (Sec. 303)
- **Geographic Barriers to Adoption.** Establishes an advisory panel to study and recommend to the Secretary of Health and Human Services (HHS) and Congress how to reduce barriers to out-of-state and out-of-county adoptions. (Sec. 305)

Enhances Capacity and Accountability for Safety and Permanence

- Substance Abuse and Child Welfare Collaboration. Encourages collaboration between substance abuse and child welfare agencies by expanding knowledge about the nature of the problem of substance abuse, barriers to treatment for child welfare families, and the collaboration underway to jointly assess families' needs, fund treatment, train staff and evaluate program effectiveness. (Sec. 201)**
- Priority for Treatment. Establishes priority for substance abuse treatment for caretaker parents who are referred for treatment by the state or local child welfare agency. (Sec. 202)
- Treatment to Parents and Children Together. Increase treatment options for substance abuse, domestic violence, homelessness, and the problems of teen parenting by allowing a child's foster care payment to be used for his care with a parent being treated in a residential program. (Sec. 203)
- Staff Training Across Agencies. Provides flexibility to states to fund training for court staff and staff of substance abuse, mental health, domestic violence, education and other agencies, in addition to child welfare, who are keeping children safe and in permanent families, and allows training funds to benefit all children in foster care or receiving adoption assistance payments. (Sec. 204)
- State Benchmarks for Quality Care. Requires states to develop their own guidelines to ensure safe quality care for children in out-of-home placements, and over time to use them to judge the performance of agencies with which the state contracts for the out-of-home care of children. (Sec. 206)
- Innovation Grants. Establishes competitive grants for state innovations in child protection and permanence that address goals such as reducing a backlog of children awaiting adoption, ensuring a permanent placement for a child within one year of a child entering care, addressing barriers to permanency, and implementing community-based child protection initiatives. (Sec. 401)
- 15 Child Welfare Demonstration Waivers. Expands from 10 to 15 the number of states that can get federal waivers to demonstrate new approaches to child welfare reform. (Sec. 402)**

*Co-sponsors, as of 6/25/97 are, Senators Chafee (R-RI), Rockefeller (D-WV), Jeffords (R-VT), DeWine (R-OH), Dodd (D-CT), Moseley-Braun (D-IL), Kerry (D-MA), Kerrey (D-NE), Kennedy (D-MA), Bond (R-MO), Dorgan. (D-ND), Levin (D-MI), Mikulski (D-MD), Moynihan (D-NY), Breaux (D-LA), Boxer (D-CA), Landrieu (D-LA) and Torricelli (D-NJ).

**There is a similar provision in the Adoption Promotion Act (H.R. 867)

6/25/97

HOUSE BILL 896
PROPOSED STATUTORY CHANGES IN JUVENILE COURT PROCESS
OVERVIEW

Steps for Decision Making Before Removal of Children:

DSS assesses safety and risk of harm for the child in the home.

- If adequate protections can be put in place, a treatment plan is developed with the family.
- If safety cannot be assured or if the child is in imminent risk of harm, a team decision is made to involve court/file petition
- The petition engages the juvenile court process as outlined below.

CATEGORIES OF JUVENILE COURT PROCESS IN ABUSE/NEGLECT/DEPENDENCY CASES	EXISTING STATUTORY REQUIREMENTS	PROPOSED STATUTORY CHANGES
Abuse/Neglect/Dependency petition for non-secure custody filed (7A-560)	As currently exists	Continues as is
Hearing to determine need for secure or non-secure custody (7A-577)	7 day hearing <ul style="list-style-type: none"> • No provision for court to order that reunification efforts are not required • No provision to describe efforts aimed at determining identity and location of any missing parent 	7 day hearing <ul style="list-style-type: none"> • The Court may order that reunification efforts are not required • Describes efforts aimed at determining identity and location of any missing parent
Adjudicatory Hearing (7A-629)	As currently exists	Continues as is
Dispositional Order (7A-651)	<ul style="list-style-type: none"> • No provision for court to order that reunification efforts are futile or that reunification efforts cease 	<ul style="list-style-type: none"> • The court may order that reunification efforts are futile or that reunification efforts cease
Review of custody order (7A-657)	6 months from the date of the dispositional order <ul style="list-style-type: none"> • No provision for court to order that reunification efforts are futile or that reunification efforts cease • No requirement for a second review within 6 months of the first review • Subsequent reviews required every year thereafter but no provision for court to order that reunification efforts are futile or that reunification efforts cease • No provision for a permanency planning hearing 	6 months from the date of the dispositional order <ul style="list-style-type: none"> • The court may order that reunification efforts are futile or that reunification efforts cease • Requires a second review within 6 months of the first review and the court may order that reunification efforts are futile or that reunification efforts cease • Subsequent reviews required every year thereafter and the court may order that reunification efforts are futile or that reunification efforts cease • Requires a permanency planning hearing within 12 months after the juvenile's placement



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July 22, 1997

To: Senate Children and Human Resources Committee

From: Carolyn D. Johnson, Committee Counsel

Re: House 896 - Child Welfare Changes
Proposed Senate Committee Substitute

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Sections 1 - 8 would become effective October 1, 1997 and apply to actions commenced on or after that date. Section 9 would become effective January 1, 1998. Section 10 would become effective when the act becomes law.



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July 22, 1997

To: Senate Children and Human Resources Committee

From: Carolyn D. Johnson, Committee Counsel

Re: House 896 - Child Welfare Changes
Proposed Senate Committee Substitute

Section 1 deletes language in G.S. 7A-289.32(3) that makes it a ground to terminate parental rights if no positive response is shown within 12 months to efforts made to strengthen the parental relationship to the child or to follow through with constructive planning for the child.

Section 2 amends G.S. 7A-289.32(7) to add substance abuse as an incapacity that is a ground for terminating parental rights if there is reasonable probability that incapacity will continue for the **'foreseeable future'**. The amendment adds the language **'foreseeable future'** and deletes **'throughout the minority of the child'** and also adds the language **'any other similar cause or condition'** and deletes **'or any other degenerative mental condition'**.

Sections 3 amends G.S. 7A-517 to add a definition of **'reasonable efforts'**.

Sections 4 and 5 amend G.S. 7A-577 to provide that (1) an order authorizing continuing nonsecure custody may include services aimed at returning a juvenile to a **'safe home'**; (2) reunification efforts are not required or shall cease if the court finds those efforts would be futile or inconsistent with a juvenile's safety and need for a safe permanent home within a reasonable period of time; and (3) the court to inquire about a missing parent at each hearing for continued nonsecure custody.

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VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Wally Perry	CNC
Angie McMillan	DHR
DAVE BRUDAN	DHR.
Will Jay	NCAHC
Don Rubin	NCPA - UAB
Joe McClees	N.C. Sept. (C) Tanks Ass. ^{Environmental Professionals} N.C. Portable Toilet Group
Lynda McDaniel	DHR/DFS
Art Williams	Governor's Office
R. Potts, Jr.	DOD
Don Richard	ADC / NC
C. L. Gibson	UCPAC - Coalition
Don Levine	DEHNR

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NAME

FIRM OR AGENCY AND ADDRESS

Evelyn Hawthorne	NE Hospital Assn.
Helen Lepina	Meck Co.
Patricia Reeler	NCAEE
Roslyn Sawitt	lobbyist
Brenda Summers	NC Equity
Priscilla Swindale	AARP
Lon B. Wilson	NEA 707
Algonia Williams	Bone & Bone / LTC
J. Craig Quinn	TCM#
Anna Tefft	OSBM
Dave Richmond	Are/NC
Peggy Maymas	qpin

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NAME

FIRM OR AGENCY AND ADDRESS

R. ROGERS

DEHNR

Robert P. ...

NCHM Non Profit Homes

W. H. ...

NCHA

Stephanie Barr

DHR

Bo Dempster

Foyner & Smith

Ann Case

DEHNR

Kim Smith

NC League of Municipalities

A. B. ...

B-T-I

VISITOR REGISTRATION SHEET

Name of Committee

Date

7/23/97

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

BKC Brooks

NCFPC

John Rustin

NCFPC

Mary Carlini

Mecklenburg County

Pam Dearholt

DOA

Martha Livegood

YAI/O/DOA

Martha Glass

DOA

Thomas Vance Bennett

N.C. CHILD FATALITY TASK FORCE

Negan Hanley

NC Child Advocacy Institute

JoAnn Leman

NCDSS/DHR

Sara Anderson Mims

NCDSS/DHR

Mike Hoch

A.G.'s office

Bob Blum

AG's office

Patrice Reed

NCA

Tara Wolf

Covenant with NC's Children

Martha Pappas Cook

Orange Co

Alana Givens

NC Assn of Co Directors of SS

Dan Fink

Durham DSS

Angie Walcott

DHR

Dale Bowers

DHR

Anne Winer

NCBA

Pat Yancey

SCSL/APPCNE

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7/23/97
Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Rob Schofield	NCUCC
Burns - Summers	NC Equity
Debra M. M. M.	op
Kyle G. G.	DITB
Gene Nelson	A. O. G. - J. A. L. O. R. S. I. O. N

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

CHILDREN & HUMAN RESOURCES COMMITTEE REPORT
Senator Jeanne H. Lucas, Chairman

AMENDED REPORT

Thursday, July 24, 1997

SENATOR JEANNE H. LUCAS,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS)896

Child Welfare Changes

Draft Number:	PCSA408
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

Senate Committee on Children & Human Resources
Minutes of Wednesday, August 13, 1997

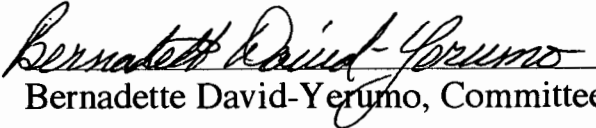
The Senate Committee on Children & Human Resources met at 11:00 a.m. on Wednesday August 13, 1997 in Room 423 of the State Legislative Office Building.

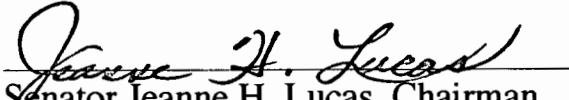
Twelve (12) members of the Committee were present.

Senator Lucas, Chairman of the Committee, called the meeting to order.

House Bill 949 entitled Improve Child Protection/Records . was presented by , Representative Gardner. Representative Gardner explained the bill at length . After much discussion of the bill, the bill received a favorable report.

The business being completed, the meeting was adjourned.


Bernadette David-Yerumo, Committee Clerk


Senator Jeanne H. Lucas, Chairman

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

CHILDREN & HUMAN RESOURCES COMMITTEE REPORT
Senator Jeanne H. Lucas, Chairman

Wednesday, August 13, 1997

SENATOR JEANNE H. LUCAS,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS)949	Improve Child Protection/Records.
	Sequential Referral: None
	Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

5

HOUSE BILL 949

Committee Substitute Favorable 4/29/97
Committee Substitute #2 Favorable 7/21/97
Committee Substitute #3 Favorable 8/4/97
Fifth Edition Engrossed 8/6/97

Short Title: Improve Child Protection/Records.

(Public)

Sponsors:

Referred to:

April 15, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE CHILD PROTECTION BY ALLOWING DISCLOSURE
3 OF CERTAIN RECORDS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 7A of the General Statutes is amended by adding the
6 following new section to read:
7 "§ 7A-675.1. Disclosure in child fatality or near fatality cases.
8 (a) The following definitions apply in this section:
9 (1) 'Child fatality' means the death of a child from suspected abuse,
10 neglect, or maltreatment.
11 (2) 'Near fatality' means a case in which a physician determines that a
12 child is in serious or critical condition as the result of sickness or
13 injury caused by suspected abuse, neglect, or maltreatment.
14 (3) 'Public agency' means any agency of State government or its
15 subdivisions as defined in G.S. 132-1(a).
16 (4) 'Findings and information' means a written summary, as allowed
17 by subsections (c) through (f) of this section, of actions taken or
18 services rendered by a public agency following receipt of
19 information that a child might be in need of protection. The
20 written summary shall include any of the following information the
21 agency is able to provide:

- a. The dates, outcomes, and results of any actions taken or services rendered.
- b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
- c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.

(b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

- (1) A person is criminally charged with having caused the child fatality or near fatality; or
- (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

(d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

- (1) Is not authorized by subsections (a) and (b) of this section;
- (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
- (3) Is likely to jeopardize the State's ability to prosecute the defendant;
- (4) Is likely to jeopardize the defendant's right to a fair trial;
- (5) Is likely to undermine an ongoing or future criminal investigation;
- or
- (6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public

1 agency. The application shall set forth, with reasonable particularity, factors
2 supporting the application. The superior court shall have jurisdiction to issue such
3 orders. Actions brought pursuant to this section shall be set down for immediate
4 hearing, and subsequent proceedings in such actions shall be accorded priority by the
5 appellate courts. After the court has reviewed the specific findings and information,
6 in camera, the court shall issue an order compelling disclosure unless the court finds
7 that one or more of the circumstances in subsection (d) of this section exist.

8 (f) Access to criminal investigative reports and criminal intelligence information
9 of public law enforcement agencies, and confidential information in the possession of
10 the State Child Fatality Prevention Team, the local teams, and the Child Fatality
11 Task Force, shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively.
12 Nothing herein shall be deemed to require the disclosure or release of any
13 information in the possession of a district attorney.

14 (g) Any public agency or its employees acting in good faith in disclosing or
15 declining to disclose information pursuant to this section shall be immune from any
16 criminal or civil liability that might otherwise be incurred or imposed for such action.

17 (h) Nothing herein shall be deemed to narrow or limit the definition of 'public
18 records' as set forth in G.S. 132-1(a)."

19 Section 2. G.S. 7A-675(h) reads as rewritten:

20 "(h) ~~Nothing in this section shall preclude the necessary sharing of information~~
21 ~~among authorized agencies. The chief district court judge in each district shall~~
22 ~~designate by standing order certain agencies in the district as 'agencies authorized to~~
23 ~~share information'. Agencies so designated shall share with one another, upon~~
24 ~~request, information that is in their possession that is relevant to any case in which a~~
25 ~~petition is filed alleging that a juvenile is abused, neglected, or dependent, and shall~~
26 ~~continue to do so until the juvenile is no longer subject to the juvenile jurisdiction of~~
27 ~~the court. Agencies that may be designated as 'agencies authorized to share~~
28 ~~information' include local mental health facilities, local health departments, local~~
29 ~~departments of social services, local law enforcement agencies, local school~~
30 ~~administrative units, the district's district attorney's office, the Division of Juvenile~~
31 ~~Services of the Administrative Office of the Courts, and the Office of Guardian ad~~
32 ~~Litem Services of the Administrative Office of the Courts. Any information shared~~
33 ~~among agencies pursuant to this subsection shall remain confidential, shall be~~
34 ~~withheld from public inspection, and shall be used only for the protection of the~~
35 ~~juvenile. Nothing in this section or any other provision of law shall preclude any~~
36 ~~other necessary sharing of information among agencies. Nothing herein shall be~~
37 ~~deemed to require the disclosure or release of any information in the possession of a~~
38 ~~district attorney."~~

39 Section 3. Funds appropriated in Senate Bill 352, 5th edition, to the
40 Department of Human Resources, Division of Social Services, for child welfare
41 system improvements shall be used to implement the provisions of this act.

42 Section 4. Sections 1 and 2 of this act become effective October 1, 1997.

43 The remainder of this act is effective upon becoming law.



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August 12, 1997

TO: Senate Committee on Children and Human Resources

FROM: Carolyn Johnson, Committee Counsel and John Young, Committee Staff

RE: HB949 - Improve Child Protection/Records (5th Edition)

Section 1 of HB949 would require the public disclosure of findings and information regarding child fatalities or near fatalities (death or serious/critical sickness or injury of a child caused by suspected abuse, neglect, or maltreatment) if: (1) a person is charged with causing the fatality or near fatality or (2) the district attorney certifies a person would have been charged with causing the fatality or near fatality but for the person's prior death.

Within 5 working days of a request, a public agency shall release the findings and information unless, upon consultation with the district attorney, the agency believes that release of the information (1) is not authorized by subsections (a) or (b) of the bill or by federal law and regulations ; (2) is likely to cause mental or physical harm or danger to a minor child residing in a deceased or injured child's household; (3) is likely to jeopardize the state's ability to prosecute the defendant; (4) is likely to jeopardize the defendant's right to a fair trial; or (5) is likely to undermine an ongoing or future criminal investigation.

Nothing in the bill is deemed to authorize access to confidential records, the disclosure of psychiatric or other evaluative materials pertaining to the child or the child's family not directly related to the fatality or near fatality, or the disclosure of information that would identify persons who provided information related to suspected abuse, neglect or maltreatment of a child. Access to criminal investigative reports and intelligence information and confidential information of child fatality task forces shall be governed by current state law. Nothing in the bill is deemed to require the disclosure or release of information in possession of the district attorney. The bill is not deemed to narrow or limit the current statutory definition of 'public records'.

If records are withheld by a public agency, the person making the request may apply for a court order to compel the release of the records. A public agency and its employees acting in good faith are immune from criminal or civil liability for disclosing or declining to disclose information as required by the bill.

Section 2 requires the chief district court judge in each judicial district to designate certain agencies that may share information among themselves regarding juveniles under the jurisdiction of the juvenile court in abuse, neglect, and dependency cases. Any information shared pursuant to this section remains confidential and may be used only for the protection of the juvenile.

Section 3 requires DHR to use funds appropriated in SB 352 (5th edition) for improvements in the child welfare system shall be used to implement the provisions contained in this act.

This substantive provisions of the bill become effective October 1, 1997.

VISITOR REGISTRATION SHEET

Children and Human Resources 8/13/97

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Stephen Davis	Capital & Strategy
Thomas Vance Bennett	NCCFTE
Shawne Hansome	DSS
Reese Pear	Salisbury Post
Paula A. Wolf	Covenant w/ NC's Children
Carm Over	BPMHL
Franklin [unclear]	Governor's office
DAVE BRIDON	DHCR
Brenda Summers	NC Equity
Teri Saylor	NC Press Association
John Rustin	NCFPC
Kristen Guilford	NC Division of Social Services
Pam Seawans	United Way of NC / Covenant w/ NC's children