

**1999**

**SENATE  
CHILDREN & HUMAN  
RESOURCES**

**MINUTES**

**North Carolina General Assembly  
1999 Session  
Senate Committee on  
Children & Human Resources Committee Members**

***Senator Jeanne H. Lucas, Chair***

***Senator Charles s. Dannelly, Vice Chair***

***Senator William N. Martin, of Guilford, Vice Chair***

***Senator William R. Purcell, Vice Chair***

***Senator James Forrester, Ranking Minority Member***

***Senator Austin M. Allran***

***Senator Betsy L. Cochrane***

***Senator Don w. East***

***Senator Virginia Foxx***

***Senator Linda Garrou***

***Senator Kay R. Hagan***

***Senator John H. Kerr, III***

***Senator Kenneth R. Moore***

***Senator Jim W. Phillips, Sr.***

***Senator Ed Warren***

***Senator Allen H. Wellons***

NORTH CAROLINA GENERAL ASSEMBLY  
COMMITTEE SUMMARY REPORT

1999-2000 Biennium		SENATE: CHILDREN & HUMAN RESOURCES		Valid Through 28-SEP-1999	
BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 238	NYE	INCREASED USE OF SERVICES OF DISABLE	R -CH. SL 99-0020	03-18-99	03-24-99
H 255	ALEXANDER	VOCATIONAL REHABILITATION CHANGES	R -CH. SL 99-0161	03-11-99	05-26-99
H 262=	CULPEPPER	ENHANCE CHILD WELFARE SERVICES	*R -CH. SL 99-0190	04-12-99	05-26-99
H 287=	ALEXANDER	CHILD CARE LAW CORRECTIONS	*R -CH. SL 99-0130	05-03-99	05-19-99
H 302=	CULPEPPER	ENHANCE CHILD SUPPORT ENFORCEMENT	*R -CH. SL 99-0293	04-29-99	06-01-99
H 302=	CULPEPPER	ENHANCE CHILD SUPPORT ENFORCEMENT	*R -CH. SL 99-0293	06-22-99	06-23-99
H 977=	CLARY	LONG-TERM CARE FACILITIES/DISCLOSURE	S -REF TO COM ON CH&HUMRS	04-27-99	
H1071=	ALEXANDER	HANDICAPPED LAW CHANGES	*R -CH. SL 99-0160	04-28-99	05-26-99
H1159=	NESBITT	PROTECTION FROM VIOLENT CAREGIVERS	*R -CH. SL 99-0318	04-29-99	06-30-99
S 35=	MARTIN R	SPEC. ASSIST/ALT. LIVING	*S -RE-REF COM ON APPROP	02-04-99	03-24-99
S 182=	PERDUE	ESTABLISH DOMESTIC VIOLENCE COMM.	*S -RE-REF COM ON APPROP	03-01-99	03-17-99
S 234	GARROU	PURCHASE ENCOURAGEMENT SUNSET OFF	S -REF TO COM ON CH&HUMRS	03-04-99	
S 236=	LUCAS	ADOPTION RECORDS AND REGISTRY	S -RE-REF COM ON CH&HUMRS	03-08-99	
S 241=	PHILLIPS	CHILD CARE LAW CORRECTIONS	*H -REF TO COM ON CHILD	03-04-99	04-15-99
S 342=	RAND	ENHANCE CHILD SUPPORT ENFORCEMENT	S -RE-REF COM ON JUDICI	03-15-99	03-25-99
S 349	ALLRAN	BAN PARTIAL-BIRTH ABORTIONS	S -REF TO COM ON CH&HUMRS	03-15-99	
S 432=	CARPENTER R	HEALTH CARE PERSONNEL REGISTRY CHANG	*H -RE-REF COM ON HEALTH	03-22-99	04-26-99
S 927	KINNAIRD	BLIND SERVICES TECHNICAL CHANGES	*H -RE-REF COM ON WAYS&MNS	04-14-99	04-21-99
S 934=	CARTER	HANDICAPPED LAW CHANGES	H -REF TO COM ON WAYS&MNS	04-14-99	04-21-99
S 947=	LUCAS	LOCAL HEALTH BOARD RULES	S -REF TO COM ON CH&HUMRS	04-14-99	
S 998	ODOM	CANCER ADVISORY BOARD/MEMBER TERMS	R -CH. SL 99-0280	04-15-99	04-21-99
S1015=	METCALF	PROTECTION FROM VIOLENT CAREGIVERS	*S -RE-REF COM ON APPROP	04-15-99	04-27-99
S1062	METCALF	SUBSTANCE ABUSE CERTIFICATION	*R -CH. SL 99-0164	04-15-99	04-26-99
S1134=	MARTIN W	WELFARE REFORM CHANGES	*R -CH. SL 99-0359	04-15-99	04-26-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

\* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

# **Agenda**

**SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**March 17, 1999**

**11:00 AM**

**Call to Order**

- 1. SB182 Senator Perdue  
Establish Domestic Violence Commission.**

**Sergeant at Arms: Mary Perry  
Ronald Spann  
Charles Marsalis  
Michael Houser**

**Page: Brandy Brooks, Roxboro N. C.      Sponsor Senator Webster**

**Intern: Takeisha Redd**

**Next Meeting**

**Wednesday, March 24, 1999**

**11:00am Room 544 LOB**

**Proposed Agenda**

**SB35 Spec. Assist/Alt. Living Senator Martin of Pitt  
SB234 Purchase Encouragement Sunset Off. Senator Garrou  
SB241 Child Care Law Corrections Senator Phillips**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, March 17, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, March 17, 1999 in room 544 of the State Legislative Office Building.

Fifteen (15) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the members, pages and sergeants-at-arms.

Senator Perdue was introduced to explain SB182 entitled Establish Domestic violence Commission. Senator Perdue sent for the an amendment and moved its adoption. The motion carried unanimously. Senator Perdue, the bill sponsor, then explained the amendment as well as the bill. After some discussion of the bill it was to be rolled into a committee substitute. Senator Perdue moved that the bill be passed as amended. The motion carried unanimously.

The next meeting was scheduled for Wednesday, March 24, 1999.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

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Senator Jeanne H. Lucas, Chair

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Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**CHILDREN & HUMAN RESOURCES COMMITTEE REPORT  
Jeanne H. Lucas, Chair**

Wednesday, March 17, 1999

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

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B.	<b>182</b>	Establish Domestic Violence Commission.
		Draft Number: PCS3626
		Sequential Referral: Appropriations/Base Budget
		Recommended Referral: None
		Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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1

SENATE BILL 182

Short Title: Establish Domestic Violence Commission.

(Public)

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Sponsors: Senators Perdue; Ballance, Ballantine, Carpenter, Carrington, Carter, Cooper, Dalton, Forrester, Foxx, Garrou, Hagan, Harris, Hartsell, Horton, Jordan, Kerr, Kinnaid, Lee, Lucas, Martin of Pitt, Martin of Guilford, Miller, Moore, Odom, Phillips, Purcell, Rand, Robinson, Rucho, Shaw of Guilford, Warren, Weinstein, and Wellons.

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Referred to: Children & Human Resources.

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March 1, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE DOMESTIC VIOLENCE COMMISSION AND TO  
3 APPROPRIATE FUNDS FOR THAT PURPOSE.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Article 9 of Chapter 143B of the General Statutes is amended  
6 by adding a new Part to read:  
7 "Part 10C. Domestic Violence Commission.  
8 "§ 143B-394.15. Commission established; purpose; membership; transaction of business.  
9 (a) Establishment. -- There is established the Domestic Violence Commission. The  
10 Commission shall be located within the Department of Administration for  
11 organizational, budgetary, and administrative purposes.  
12 (b) Purpose. -- The purpose of the Commission is to assess statewide needs related  
13 to domestic violence and to assure that necessary services, policies, and programs are  
14 provided to those in need.  
15 (c) Membership. -- The Commission shall consist of 29 members, who reflect the  
16 geographic and cultural regions of the State, as follows:  
17 (1) Six persons appointed by the Governor, one of whom is an  
18 academician who is knowledgeable about domestic violence trends  
19 and treatment; one of whom is a member of the medical  
20 community; one of whom is a United States Attorney for the State  
21 of North Carolina or that person's designee; one of whom is a

member of the North Carolina Bar Association who has studied domestic violence issues; one of whom is a representative of a local victims' assistance program; and one of whom is a member of the North Carolina Coalition Against Domestic Violence.

(2) Six persons appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, one of whom is a member of the Senate; one of whom is a district attorney or assistant district attorney; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom is a county manager; one of whom is a representative of a community legal services agency who works with domestic violence victims; and one of whom is a representative of the linguistic and cultural minority communities.

(3) Six persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, one of whom is a member of the House of Representatives; one of whom is a member of the business community; one of whom is a district court judge; one of whom is a representative of a local victims' assistance program; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; and one of whom is a representative of the linguistic and cultural minority communities.

(4) The following persons or their designees, ex officio:

- a. The Governor.
- b. The Lieutenant Governor.
- c. The Attorney General.
- d. The Secretary of the Department of Administration.
- e. The Secretary of the Department of Crime Control and Public Safety.
- f. The Superintendent of Public Instruction.
- g. The Secretary of the Department of Correction.
- h. The Secretary of the Department of Health and Human Services.
- i. The Director of the Office of State Personnel.
- j. The Executive Director of the North Carolina Council for Women.
- k. The Director of the Institute of Government.

(d) Terms. -- Members shall serve for two-year terms, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

(1) The Governor shall initially appoint three members for a term of two years and three members for a term of three years.

1           (2)   The President Pro Tempore of the Senate shall initially appoint  
2           three members for a term of two years and three members for a  
3           term of three years.

4           (3)   The Speaker of the House of Representatives shall initially appoint  
5           three members for a term of two years and three members for a  
6           term of three years.

7   Initial terms shall commence on September 1, 1999.

8   (e) Chair. -- The chair shall be appointed biennially by the Governor from among  
9   the membership of the Commission. The initial term shall commence on September  
10   1, 1999.

11   (f) Vacancies. -- A vacancy in the Commission or as chair of the Commission  
12   resulting from the resignation of a member or otherwise shall be filled in the same  
13   manner in which the original appointment was made, and the term shall be for the  
14   balance of the unexpired term.

15   (g) Compensation. -- The Commission members shall receive no salary as a result  
16   of serving on the Commission but shall receive per diem, subsistence, and travel  
17   expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as  
18   applicable. When approved by the Commission, members may be reimbursed for  
19   subsistence and travel expenses in excess of the statutory amount.

20   (h) Removal. -- Members may be removed in accordance with G.S. 143B-13 as if  
21   that section applied to this Article.

22   (i) Meetings. -- The chair shall convene the Commission. Meetings shall be held as  
23   often as necessary, but not less than four times a year.

24   (j) Quorum. -- A majority of the members of the Commission shall constitute a  
25   quorum for the transaction of business. The affirmative vote of a majority of the  
26   members present at meetings of the Commission shall be necessary for action to be  
27   taken by the Commission.

28   (k) Office Space. -- The Department of Administration shall provide office space  
29   in Raleigh for use as offices by the Domestic Violence Commission, and the  
30   Department of Administration shall receive no reimbursement from the Commission  
31   for the use of the property during the life of the Commission.

32   **"§ 143B-394.16. Powers and duties of the Commission; reports.**

33   (a) Powers and Duties. -- The Commission shall have the following powers and  
34   duties:

35           (1)   As recommended in the January 15, 1999, final report of the  
36           Governor's Task Force on Domestic Violence, to develop and  
37           recommend to the General Assembly the 'Safe Families Act' and  
38           to promote adequate funding to promote victim safety and  
39           accountability of perpetrators.

40           (2)   To develop and recommend domestic violence training initiatives  
41           for law enforcement and judicial personnel and for all persons who  
42           provide treatment and services to domestic violence victims.

43           (3)   To develop training initiatives for and make recommendations and  
44           provide information and advice to State agencies in the areas of

child protection, education, employer/employee relations, criminal justice, and subsidized housing.

(4) To provide information and advice to any private entities that request assistance in providing services and support to domestic violence victims.

(5) To design, coordinate, and oversee a statewide public awareness campaign.

(6) To design and coordinate improved data collection efforts for domestic violence crimes and acts in the State.

(7) To research, develop, and recommend proposals of how best to meet the needs of domestic violence victims and to prevent domestic violence in the State.

(b) Report. -- The Commission shall report its findings and recommendations, including any legislative or administrative proposals, to the General Assembly no later than April 1 each year."

Section 2. There is appropriated from the General Fund to the Department of Administration the sum of one hundred thousand dollars (\$100,000) for the 1999-2000 fiscal year for an executive director, an administrative assistant, and operating costs of the Domestic Violence Commission.

Section 3. If it recommends the adoption in North Carolina of a "Safe Families Act", the Domestic Violence Commission shall report its legislative proposal to the General Assembly on or before April 1, 2000.

Section 4. This act becomes effective July 1, 1999.



# SENATE BILL 182: Establishment of Domestic Violence Commission

**Committee:** Senate Children & Human  
Resources

**Introduced by:** Senator Perdue  
**Summary by:** Jo B. McCants  
Committee Co-Counsel

**Date:** March 17, 1999

**Version:** 1

**SUMMARY:** *This bill establishes within the Department of Administration a Domestic Violence Commission. The Commission will consist of 29 members appointed by the Governor, President Pro Tempore of the Senate, and the Speaker of the House. The members will be appointed for two-year terms, except that the initial appointment of nine of the members will be for a three-year term. The Commission will meet as often as necessary, but not less than four times a year. The Commission has the following duties:*

- 1) recommend a "Safe Families Act" that promotes victim safety and accountability of perpetrators to the General Assembly;*
- 2) develop and recommend domestic violence training initiatives for law enforcement, judicial personnel and advocates;*
- 3) develop and recommend training to State agencies in the areas of child protection, education, employer/employee relations, criminal justice, and subsidized housing;*
- 4) provide information to private entities that provide services and support to domestic violence victims;*
- 5) design, coordinate, and oversee a statewide public awareness campaign;*
- 6) design and coordinate improved data collection of domestic violence crimes committed in the State; and*
- 7) research, develop, and recommend proposals on how to assist domestic violence victims and how to prevent domestic violence in the State.*

*The Commission must report its findings, recommendations, and legislative or administrative proposals to the General Assembly by April 1 of each year. However, if the Commission is going to recommend the adoption of a "Safe Families Act" the Commission must report its legislative proposal to the General Assembly on or before April 1, 2000.*

*There is an appropriation of \$100,000 for fiscal year 1999-2000 to the Department of Administration for an executive director, an administrative assistant, and for operating costs of the Commission.*

*The act becomes effective on July 1, 1999.*

**BACKGROUND:** In October of 1998, Governor Hunt convened a Domestic Violence Task Force to study the State's response to domestic violence. The task force members were asked to

# SENATE BILL 182

*Page 2*

review current North Carolina law and make recommendations for changes that would enhance victim safety and offender accountability; recommend training for law enforcement and court officials; and develop a public awareness campaign. The Public Awareness Committee of the task force recommended the establishment of a "Commission on Domestic Violence." According to the task force, the Commission's mission should be to assess statewide needs related to domestic violence, assure that necessary services, policies and programs are provided, and oversee and coordinate policy at the highest level of government in order to prevent and control domestic violence in North Carolina. Twenty-nine states have governmental sponsored domestic violence commissions.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

S.B. No. 182

DATE: \_\_\_\_\_

Amendment No. \_\_\_\_\_  
(to be filed in by  
Principal Clerk)

Sen.) \_\_\_\_\_

moves to amend the bill on page 1, line 15,  
by deleting said line and inserting in lieu thereof the following:

“(c) Membership. -- The Commission shall consist of 32 members, who reflect”

And further moves to amend the bill on page 1, line 17, by deleting said line and inserting in lieu thereof the following:

“(1) Seven persons appointed by the Governor, one of whom is a clerk of superior court;  
one of whom is an”

And further moves to amend the bill on page 2, lines 5, 6 and 7, by deleting said lines and inserting in lieu thereof the following:

“(2) Seven persons appointed by the General Assembly, upon recommendation of the  
President Pro Tempore of the Senate, one whom is a member of the Senate; one of  
whom is a district court judge; one of whom is a district”

And further moves to amend the bill on page 2, lines 15, 16, and 17, by deleting said lines and inserting in lieu thereof the following:

“(3) Seven persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, one whom is a member of the House of Representative; one of whom is a magistrate; one of”

SIGNED \_\_\_\_\_

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

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 3-17-99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John James	DHHS/DSS
Jean Carroll	DOA/NCCFW
Alice Coleman	DHHS/DSS
Kristen Guillory	Lt. Gov. Office
Anne Dineen	NCCADV
Leslie Garsbrook	Gov's DV Task Force
Monita Bryant	DOA - Council for Women
Katie L. Torsett	DOA
Martha Glass	DOA
Kevin Hawn	Gov's office
Jonathan Williams	CCPS

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 3-17-99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Pamela Weaver East	AOC
George Reed	NC Council of Churches
Roslyn Sawitt	NCCO
Christina Modlin	Covenant w/ NC's Children
Paula A. Vogt	Covenant w/ NC's Children
A. Walker	DOA
Pam Deardorff	Youth Advocacy & Invol. / DOA
John Ruth	NCFPC
Cheryl Derrin	Visitor

# **Agenda**

**SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**March 24, 1999**

**11:00 AM**

**Call to Order**

**SB35 Spec. Assist/Alt. Living Sponsor: Senator Martin of Pitt**

**SB234 Purchase Encouragement Sunset Off. Sponsor: Senator Garrou**

**Sergeants at Arms: Mary Perry  
Ronald Spann  
Michael Houser**

**Page: Takeela Reddrick Greenville, N. C.  
Sponsor Senator Ed. Warren**

**Next Meeting  
Wednesday, March 31, 1999  
11:00am Room 544 LOB**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, March 24, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, March 24, 1999 in room 544 of the State Legislative Office Building.

Fifteen (15) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the members, pages and sergeants-at-arms.

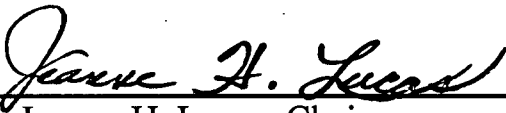
Senator Martin of Guilford was introduced to explain SB 35 entitled Spec. Assist/Alt. Living. Senator Moore put forth an amendment, which passed. After some discussion of the bill the, Senator Cochrane moved that the bill be reported at unfavorable as to bill, but favorable as to committee substitute bill. The motion carried unanimously.

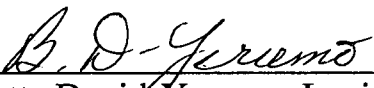
Senator Garrou was introduced to explain SB234 entitled Purchase Encouragement sunset off. Senator Kerr brought to the attention of the chair that Representative Nye has an identical bill that has crossed over which is in the committee box. Senator Kerr moved that SB234 be withdrawn from today's calendar and that HB238 entitled Increase Use of Services of Disabled be placed on the calendar for consideration today. The motion carried. Senator Kerr then moved that the bill be reported out as favorable. The motion carried unanimously.

The next meeting was scheduled for Wednesday, March 31, 1999.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**CHILDREN & HUMAN RESOURCES COMMITTEE REPORT  
Jeanne H. Lucas, Chair**

Wednesday, March 24, 1999

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

**FAVORABLE**

H.B.      238                    Increase Use of Services of Disabled.  
   Sequential Referral:      None  
   Recommended Referral:   None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B.      35                    Spec. Assist/Alt. Living.  
   Draft Number:            PCS1604  
   Sequential Referral:    Appropriations/Base Budget  
   Recommended Referral:   None  
   Long Title Amended:    No

**TOTAL REPORTED: 2**

Committee Clerk Comment:      None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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1

SENATE BILL 234

Short Title: Purchase Encouragement Sunset Off.

(Public)

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Sponsors: Senators Garrou, Cooper, Perdue; Ballance, Carter, Cochrane, Dalton, Forrester, Foxx, Gulley, Harris, Hartsell, Jordan, Kinnaird, Lee, Lucas, Metcalf, Miller, Phillips, Purcell, Rand, Reeves, Robinson, and Wellons.

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Referred to: Children & Human Resources.

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March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO REMOVE THE SUNSET FROM AN ACT TO ENCOURAGE THE  
3 PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND  
4 PERSONS AND BY SEVERELY DISABLED PERSONS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Section 5 of Chapter 265 of the 1995 Session Laws reads as  
7 rewritten:

8 "Sec. 5. This act becomes effective January 1, 1996, and applies to contracts for  
9 which bids or offers are solicited on or after that ~~date, and expires January 1, 2000.~~  
10 date."

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



# SENATE BILL 234: Purchase Encouragement Sunset Off

## BILL ANALYSIS

**Committee:** Senate Children and Human  
Resources  
**Date:** March 23, 1999  
**Version:** 1

**Introduced by:** Sen. Garrou  
**Summary by:** Linda Attarian  
Committee Counsel

**SUMMARY:** *Session Laws 1995, c. 265 amended Article 3 of Chapter 143 of the General Statutes to specifically add "nonprofit work centers for the blind and severely disabled" to the list of types of contractors and businesses that all State agencies, institutions and political subdivisions are encouraged to contract with for goods and services. Section 5 of the Session Law provides that the amendments made by that act expire January 1, 2000. SB 234 deletes this expiration date, thereby removing the sunset. This bill is effective when it becomes law.*

**CURRENT LAW:** Article 3 of Chapter 143 of the General Statutes provides that it is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State purchasing of goods and services. Every governmental agency required by statute to use the services of the Department of Administration (Department) in the purchase of goods and services and certain private, nonprofit corporations are required to make annual reports to the Department detailing their use of such contractors. Session Laws 1995, c. 265 amended Article 3 of Chapter 143 of the General Statutes to specifically added "nonprofit work centers for the blind and severely disabled" to the list of types of contractors and businesses that are subject to this reporting requirement. The Department is required to make annual reports to the Joint Legislative Commission on Governmental Operations on its administration of this program.

A "nonprofit work center for the blind and the severely disabled" is defined as an agency that is operated solely in the interest of the blind and the severely disabled, and employs severely handicapped individuals for a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or in accordance with the percentage required under federal law, whichever is less.

"Blind" means visual acuity equal to or less than 20/200 in the better eye with correcting lenses or greater than 20/200 if accompanied by a limited field of vision in the better eye to such a degree that its widest diameter subtends an angle no greater than 20 degrees.

"Severely Disabled" means an individual with a handicapping condition as defined in G.S. 168-1 or G.S. 168A-3, and constitutes a substantial bar to employment.

The procurement procedures and requirements for purchases from nonprofit work centers for the blind and the severely disabled are set forth in G.S. 143-48.2. The text of the statute follows on page two.

# SENATE BILL 234

Page 2

## **§ 143-48.2. Procurement program for nonprofit work centers for the blind and the severely disabled.**

(a) An agency subject to the provisions of this Article for the procurement of goods may purchase goods directly from a nonprofit work center for the blind and severely disabled, subject to the following provisions:

- (1) The purchase may not exceed the applicable expenditure benchmark under G.S. 143-53.1.
- (2) The goods must not be available under a State requirements contract.
- (3) The goods must be of suitable price and quality, as determined by the agency.

(b) An agency subject to the provisions of this Article for the procurement of services may purchase services directly from a nonprofit work center for the blind and severely disabled, subject to the following provisions:

- (1) The services must not be available under a State requirements contract.
- (2) The services must be of suitable price and quality, as determined by the agency.

(c) The provisions of G.S. 143-52 shall not apply to purchases made pursuant to this section. However, nothing in this section shall prohibit a nonprofit work center for the blind and severely disabled from submitting bids or making offers for contracts under G.S. 143-52.

(d) For the purpose of this subsection, a "nonprofit work center for the blind and severely disabled" has the same meaning as under G.S. 143-48.

**BACKGROUND:** Nonprofit work centers for the blind and severely disabled employ and train hundreds of citizens for employment each year. The work centers produce and sell products and services to State agencies, universities, public schools, and community colleges. The types of services include lawn care, highway rest area maintenance, recycling, and photocopying. Examples of products produced by the work centers include ballpoint pens, mop handles, and road signs.

The cumulative dollars received by the work centers from State purchasing just for the first two quarters of the 1998-99 fiscal year total almost \$338,000. Also, the total dollars received for services related to Rest Area Control from the Department of Transportation for Fiscal Year 1998-99 was \$1,551,589. (Source: Department of Administration).

# NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

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

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

S. B. No. 35

DATE 3/24/99

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

(to be filled in by  
Principal Clerk)

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

Rep. ) Moore  
Sen. )

1 moves to amend the bill on page 1, line 12

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the number "200" and  
4 substituting "400."

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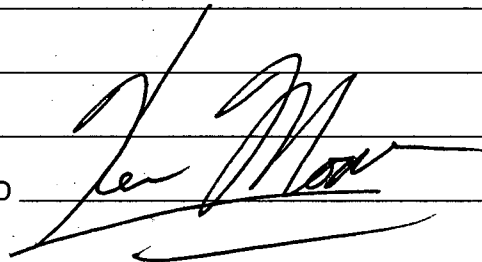
16 \_\_\_\_\_

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19 \_\_\_\_\_

SIGNED



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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 238  
Committee Substitute Favorable 3/11/99

Short Title: Increase Use of Services of Disabled.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO REMOVE THE SUNSET FROM LAWS ENCOURAGING THE  
3 PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND AND  
4 BY SEVERELY DISABLED PERSONS.  
5 The General Assembly of North Carolina enacts:  
6 Section 1. Section 5 of Chapter 265 of the 1995 Session Laws reads as  
7 rewritten:  
8 "Sec. 5. This act becomes effective January 1, 1996, and applies to contracts for  
9 which bids or offers are solicited on or after that ~~date, and expires January 1, 2000.~~  
10 date."  
11 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 35\*

Short Title: Spec. Assist/Alt. Living.

(Public)

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Sponsors: Senators Martin of Pitt, Carpenter, Cochrane, Dannelly, Purcell; and  
Perdue.

---

Referred to: Children & Human Resources.

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February 4, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE USE OF FUNDS FOR ADULT SPECIAL  
3 ASSISTANCE FOR DEMONSTRATION PROJECT ON ALTERNATIVE  
4 LIVING ARRANGEMENTS.  
5 The General Assembly of North Carolina enacts:  
6 Section 1. The Department of Health and Human Services shall  
7 implement a demonstration project to test the feasibility and cost of giving elderly  
8 and disabled adults who are eligible for State/County Special Assistance a choice of  
9 staying at home or entering an adult care facility. The Department shall use funds  
10 available for State/County Special Assistance for the 1999-2000 and 2000-2001 fiscal  
11 years to make payments to eligible individuals in in-home living arrangements.  
12 Payments may be made for not more than 200 individuals for the fiscal period  
13 beginning July 1, 1999, and ending June 30, 2001. The Department shall make an  
14 interim progress report to members of the House and Senate Appropriations  
15 Subcommittees on Health and Human Services and to the North Carolina Study  
16 Commission on Aging no later than June 30, 2000, and shall make a final report no  
17 later than October 1, 2001. The final report shall include, but is not limited to, the  
18 following information:  
19 (1) Cost savings that could occur by allowing individuals eligible for  
20 State/County Special Assistance the option to remain in the home.  
21 (2) Which activities of daily living or other need criteria are reliable  
22 indicators for identifying individuals with the greatest need for  
23 income supplements for in-home living arrangements.

- 1                   (3)   How much case management is needed and which types of  
2                   individuals are most in need of case management.  
3                   (4)   Findings and recommendations as to the feasibility of continuing or  
4                   expanding the demonstration project.  
5                   Section 2. This act becomes effective July 1, 1999, and expires June 30,  
6 2000.



# SENATE BILL 35: Special Assistance /Alternative Living

## BILL ANALYSIS

**Committee:** Senate Children & Human  
Resources

**Date:** March 17, 1999

**Version:** 1

**Introduced by:** Senator Martin of Pitt

**Summary by:** Jo B. McCants  
Committee Co-Counsel

**SUMMARY:** *This bill is a recommendation of the North Carolina Study Commission on Aging. The bill requires the Department of Health and Human Services (DHHS) to implement a demonstration project to determine the feasibility and cost of allowing elderly and disabled adults who are eligible for State/County Assistance\* the choice of living at home rather than entering an adult care facility. The Department will use funds available for State/County Special Assistance for fiscal years 1999-2000 and 2000-2001 to provide payment to the individuals who are in an in-home living arrangement. During the demonstration project, payments may not be made to more than 200 individuals. The Department is required to make an interim progress report to the House and Senate Appropriations Subcommittees on Health and Human Services and the Study Commission on Aging by June 30, 2000 and a final report must be made by October 1, 2001.*

*The act becomes effective on July 1, 1999, and expires on June 30, 2000.*

**CURRENT LAW:** Currently, the elderly and disabled adults who are eligible for State/County Assistance must live in a State licensed "adult care home" before payment will be made to assist them. Adult care homes include: assisted living residences, family care homes, and group homes for developmentally disabled adults.

**BACKGROUND:** The 1997 General Assembly included a provision in the budget that required DHHS to study ways to provide assistance to low-income elderly or disabled adults who are eligible for Medicaid or State/County Special Assistance for the purpose of supporting a range of living arrangements. The study was to include a review of and a recommendation on the following:

- (1) The types of living arrangements that can support the daily care needs of individuals who are otherwise eligible for Medicaid or Special Assistance;
- (2) A payment structure based on living arrangement, including by type of facility;
- (3) Criteria to determine the appropriateness of care;
- (4) The impact of alternate living arrangements on Medicaid eligibility and costs, including any needed changes that would promote cost efficiencies;
- (5) A case management system to support appropriate placements;
- (6) The costs of providing Special Assistance to support a range of living arrangements; and
- (7) The reasons an individual chooses to live in an adult care home instead of the individual's own home, including the factors that hinder or impede individuals from receiving services needed to remain at home or otherwise avoid placement in an adult care home.

# SENATE BILL 35

Page 2

The Department was required to report its findings to the North Carolina Study Commission on Aging, the Chairs of the House and Senate Appropriations Subcommittees on Human Resources and Fiscal Research by May 1, 1998.

\* A copy of the statute that specifies who is eligible for State/County Special Assistance is below.

## § 108A-41. Eligibility.

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b).

(b) Assistance shall be granted to any person who:

(1) Is 65 years of age and older, or is between the ages of 18 and 65 and is permanently and totally disabled; and

(2) Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission; and

(3) Is one of the following:

a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance;

b. A person coming to North Carolina to join a close relative who has resided in North Carolina for at least 180 consecutive days immediately prior to the person's application. The close relative shall furnish verification of his or her residency to the local department of social services at the time the applicant applies for special assistance. As used in this sub-subdivision, a close relative is the person's parent, grandparent, brother, sister, spouse, or child; or

c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE D  
COMMITTEE SUBSTITUTE

SENATE BILL 35\*  
Proposed Committee Substitute S35-PCS1604-SE

MAR 24 1999

**ADOPTED**  
(Public)

Short Title: Spec. Assist/Alt. Living.

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Sponsors:

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Referred to:

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February 4, 1999

1 A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE USE OF FUNDS FOR ADULT SPECIAL  
3 ASSISTANCE FOR DEMONSTRATION PROJECT ON ALTERNATIVE  
4 LIVING ARRANGEMENTS.

5 The General Assembly of North Carolina enacts:

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11 years to make payments to eligible individuals in in-home living arrangements.  
12 Payments may be made for not more than 400 individuals for the fiscal period  
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15 Subcommittees on Health and Human Services and to the North Carolina Study  
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21 (2) Which activities of daily living or other need criteria are reliable  
22 indicators for identifying individuals with the greatest need for  
23 income supplements for in-home living arrangements.

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 3-24

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Katherine Hodge	League of Women Voters of Moore Co. 1066 Seneca Lakes Dr. Shelton, NC 27376
Florence Vryn	League of Women Voters of Moore Co 619 Hollywood Vlg Southern Pines, NC 28387
Helen Lipina	Meck Co. DSS
Joyce L. Ashby	NC Dept. of Admin. - Raleigh, NC
Patricia A. Yancey	FOR/SCSL
Stacy Glanney	NC HCFA
Steve Stone	TCI 1220 Atlantic Ave Rocky Mount 27801
JANICE ROSSI	NCARF 801 OBERLIN RD STE 325 RALEIGH, NC 27605
Alice Hagaman	National Board Certified Teachers - Durham
Lon B. Hiler	NCA & TC 7
Wall Jung	ATHC

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date \_\_\_\_\_

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Dave Richard	The Arc Inc
Jane Warsaw	LWV NC — 301 Barrett Dr. Raleigh, 27605
Charles Moore	guest
Mindy McNeely	NC State
Mary Beth	Div. of Adm.
Bill Little	Duke Univ Long Term Care (Senior Scholar)
Fannie Williams	Duke Univ. Long Term Care (Senior Scholar)
John Leaston	Purchase & Contract

# **Agenda**

**SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**April 14, 1999**

**11:00 AM**

**Call to Order**

**SB241 Child Care Law Corrections – Senator Lucas**

**Sergeants at Arms: Mary Perry  
Ronald Spann  
Michael Houser**

**Page: Kristin throne, Avon N. C.  
Sponsor Senator Marc Basnight**

**Next Meeting  
To Be Announced  
11:00am Room 544 LOB**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, April 14, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, April 14, 1999 in room 544 of the State Legislative Office Building.

Sixteen (16) members of the Committee were present.

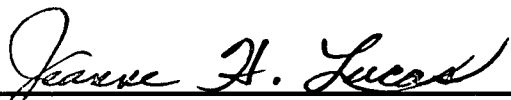
Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and sergeants-at-arms. Senator Lucas then turned the meeting over to Senator Martin of Pitt.


Senator Lucas was introduced to explain her bill SB241 entitled Child Care Law Corrections. Senator Phillips put forth a Committee Substitute and moved its adoption, which passed. After some discussion of the bill, Senator Garrou moved that the bill be reported out as unfavorable as to bill, but favorable as to committee substitute bill. The motion carried unanimously.

The next meeting was scheduled for Wednesday, April 21, 1999.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**CHILDREN & HUMAN RESOURCES COMMITTEE REPORT  
Jeanne H. Lucas, Chair**

Thursday, April 15, 1999

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

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B.	<b>241</b>	Child Care Law Corrections	
		Draft Number:	PCS1699
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: None

**Senate Committee on Children & Human resources**  
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Respectfully submitted,

---

Senator Jeanne H. Lucas, Chair

---

Bernadette David-Yerumo, Legislative Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 241\*

Short Title: Child Care Law Corrections.

(Public)

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Sponsors: Senators Phillips; Ballance, Cooper, Gulley, Hagan, Lee, Martin of Guilford, Metcalf, Perdue, Purcell, Rand, and Warren.

---

Referred to: Children & Human Resources.

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March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CORRECTIONS TO THE GENERAL STATUTES  
3 REGARDING CHILD CARE AND TO REPEAL CERTAIN OTHER LAWS  
4 PERTAINING TO CHILD CARE PROGRAM STANDARDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 110-88(2) reads as rewritten:

7 "(2) To require inspections by and satisfactory written reports from  
8 representatives of local or State health agencies and fire and  
9 building inspection agencies and from representatives of the  
10 Department prior to the issuance of a license to any child care  
11 center."

12 Section 2. G.S. 110-91(4) reads as rewritten:

13 "(4) Building. -- Each child care facility shall be located in a building  
14 which meets the appropriate requirements of the North Carolina  
15 Building Code under standards which shall be developed by the  
16 Building Code Council, subject to adoption by the Commission  
17 specifically for child care facilities, including facilities operated in a  
18 private residence. These standards shall be consistent with the  
19 provisions of this Article. A local building code enforcement  
20 officer shall approve any proposed alternate material, design, or  
21 method of construction, provided the building code enforcement  
22 officer finds that the alternate, for the purpose intended, is at least  
23 the equivalent of that prescribed in the technical building codes in

1 quality, strength, effectiveness, fire resistance, durability, or safety.  
2 A local building code enforcement officer shall require that  
3 sufficient evidence or proof be submitted to substantiate any claim  
4 made regarding the alternate. The Child Care Commission may  
5 request changes to the Building Code to suit the special needs of  
6 preschool children. Satisfactorily written reports from  
7 representatives of building inspection agencies verifying that at the  
8 time of inspection current code requirements are met shall be  
9 required prior to the issuance of ~~a license and~~ an initial license,  
10 whenever renovations are made to a child care center, or when the  
11 operator requests licensure of space not previously approved for  
12 child care."

13 Section 3. G.S. 110-91(8) reads as rewritten:

14 "(8) Qualifications for Staff. -- All child care center administrators shall  
15 be at least 21 years of age. All child care center administrators  
16 shall have the North Carolina Early Childhood Administration  
17 Credential or its equivalent as determined by the Department. All  
18 child care administrators performing administrative duties as of the  
19 date this act becomes law and child care administrators who  
20 assume administrative duties at any time after this act becomes law  
21 and until September 1, 1998, shall obtain the required credential  
22 by September 1, 2000. Child care administrators who assume  
23 administrative duties after September 1, 1998, shall begin working  
24 toward the completion of the North Carolina Early Childhood  
25 Administration Credential or its equivalent within six months after  
26 assuming administrative duties and shall complete the credential or  
27 its equivalent within two years after beginning work to complete  
28 the credential. Each child care center shall be under the direction  
29 or supervision of a person meeting these requirements. All staff  
30 counted toward meeting the required staff-child ratio shall be at  
31 least 16 years of age, provided that persons younger than 18 years  
32 of age work under the direct supervision of a ~~credentialed~~ staff  
33 person who is at least 21 years of age. All lead teachers in a child  
34 care center shall have at least a North Carolina Early Childhood  
35 Credential or its equivalent as determined by the Department.  
36 Lead teachers shall be enrolled in the North Carolina Early  
37 Childhood Credential coursework or its equivalent as determined  
38 by the Department within six months after becoming employed as  
39 a lead teacher or within six months after this act becomes law,  
40 whichever is later, and shall complete the credential or its  
41 equivalent within 18 months after enrollment.

42 For child care centers licensed to care for 200 or more children,  
43 the Department, in collaboration with the North Carolina Institute  
44 for Early Childhood Professional Development, shall establish

categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish appropriate qualifications for all ~~other~~ staff in child care centers. These standards shall reflect training, experience, education and credentialing and shall be appropriate for the size center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in child care are cared for by qualified people. No requirements may interfere with the teachings or doctrine of any established religious organization."

Section 4. G.S. 110-93 reads as rewritten:

**"§ 110-93. Application for a license.**

(a) Each person who seeks to operate a child care facility shall apply to the Department for a license. The application shall be in the form required by the Department. Each ~~operator~~ applicant seeking a license shall be responsible for supplying with the application the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this ~~Article~~, Article in effect at the time of application, including any required reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an ~~operator~~ applicant conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article at the time of application as shown in the application and other supporting data, the Secretary shall issue a license that shall remain valid until the Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other

1 provisions of this Article, subject to suspension or revocation for cause as provided in  
2 this Article. If the applicant fails to conform to the required rules and standards, the  
3 Secretary may issue a provisional license under the policies of the Commission. The  
4 Department shall notify the ~~operator~~ applicant in writing by registered or certified  
5 mail the reasons the Department issued a provisional license.

6 (c) Repealed by Session Laws 1997-506, s. 10.

7 (d) Repealed by Session Laws 1977, c. 929, s. 1."

8 Section 5. G.S. 110-99(b) reads as rewritten:

9 "(b) A person who provides only drop-in or short-term child care as described in  
10 ~~G.S. 110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child care provided  
11 in churches, shall notify the Department that the person is providing only drop-in or  
12 short-term child care. Any person providing only drop-in or short-term child care as  
13 described in ~~G.S. 110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child  
14 care provided in churches, shall display in a prominent place at all times a notice that  
15 the child care arrangement is not required to be licensed and regulated by the  
16 Department and is not licensed and regulated by the Department."

17 Section 6. Section 4(b) of S.L. 1997-506 is repealed.

18 Section 7. Section 28.3 of S.L. 1997-506 is repealed.

19 Section 8. This act becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

S241-PCSSE-001

PROPOSED COMMITTEE SUBSTITUTE

Senate Bill 241

THIS IS A DRAFT 12-APR-99 10:38:46

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Child Care Law Corrections.

(Public)

---

Sponsors:

---

Referred to:

---

March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES  
3 REGARDING CHILD CARE, TO REPEAL SECTION 4(B) OF S.L. 1997-506,  
4 AND TO MAKE CHANGES REGARDING THE TRAINING MATERIALS THAT MAY  
5 BE USED BY CHILD CARE FACILITIES.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 110-88(2) reads as rewritten:  
8 "(2) To require inspections by and satisfactory written  
9 reports from representatives of local or State  
10 health ~~agencies~~ and agencies, fire and building  
11 inspection ~~agencies~~ agencies, and from  
12 representatives of the Department prior to the  
13 issuance of a an initial license to any child care  
14 center."  
15 Section 2. G.S. 110-91(8) reads as rewritten:  
16 "(8) Qualifications for Staff. -- All child care center  
17 administrators shall be at least 21 years of age.  
18 All child care center administrators shall have the  
19 North Carolina Early Childhood Administration  
20 Credential or its equivalent as determined by the

1 Department. All child care administrators  
2 performing administrative duties as of the date  
3 this act becomes law and child care administrators  
4 who assume administrative duties at any time after  
5 this act becomes law and until September 1, 1998,  
6 shall obtain the required credential by September  
7 1, 2000. Child care administrators who assume  
8 administrative duties after September 1, 1998,  
9 shall begin working toward the completion of the  
10 North Carolina Early Childhood Administration  
11 Credential or its equivalent within six months  
12 after assuming administrative duties and shall  
13 complete the credential or its equivalent within  
14 two years after beginning work to complete the  
15 credential. Each child care center shall be under  
16 the direction or supervision of a person meeting  
17 these requirements. All staff counted toward  
18 meeting the required staff-child ratio shall be at  
19 least 16 years of age, provided that persons  
20 younger than 18 years of age work under the direct  
21 supervision of a ~~credentialed~~ staff person who is  
22 at least 21 years of age. All lead teachers in a  
23 child care center shall have at least a North  
24 Carolina Early Childhood Credential or its  
25 equivalent as determined by the Department. Lead  
26 teachers shall be enrolled in the North Carolina  
27 Early Childhood Credential coursework or its  
28 equivalent as determined by the Department within  
29 six months after becoming employed as a lead  
30 teacher or within six months after this act becomes  
31 law, whichever is later, and shall complete the  
32 credential or its equivalent within 18 months after  
33 enrollment.

34 For child care centers licensed to care for 200  
35 or more children, the Department, in collaboration  
36 with the North Carolina Institute for Early  
37 Childhood Professional Development, shall establish  
38 categories to recognize the levels of education  
39 achieved by child care center administrators and  
40 teachers who perform administrative functions. The  
41 Department shall use these categories to establish  
42 appropriate staffing based on the size of the  
43 center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish appropriate qualifications for all other staff in child care centers. These standards shall reflect training, experience, education and credentialing and shall be appropriate for the size center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in child care are cared for by qualified people. No requirements may interfere with the teachings or doctrine of any established religious organization."

Section 3. G.S. 110-93 reads as rewritten:

"§ 110-93. Application for a license.

(a) Each person who seeks to operate a child care facility shall apply to the Department for a license. The application shall be in the form required by the Department. Each ~~operator~~ applicant seeking a license shall be responsible for supplying with the application the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this ~~Article~~, Article in effect at the time of application, including any required reports from the local and district health departments, local building inspectors,

1 local firemen, voluntary firemen, and others, on forms which  
2 shall be provided by the Department.

3 (b) If an ~~operator~~ applicant conforms to the rules adopted by  
4 the Commission for Health Services pursuant to G.S. 110-91(1) and  
5 with the standards established or authorized by this Article at  
6 the time of application as shown in the application and other  
7 supporting data, the Secretary shall issue a license that shall  
8 remain valid until the Secretary notifies the licensee otherwise  
9 pursuant to G.S. 150B-3 or other provisions of this Article,  
10 subject to suspension or revocation for cause as provided in this  
11 Article. If the applicant fails to conform to the required rules  
12 and standards, the Secretary may issue a provisional license  
13 under the policies of the Commission. The Department shall notify  
14 the ~~operator~~ applicant in writing by registered or certified mail  
15 the reasons the Department issued a provisional license.

16 (c) Repealed by Session Laws 1997-506, s. 10.

17 (d) Repealed by Session Laws 1977, c. 929, s. 1."

18 Section 4. G.S. 110-99(b) reads as rewritten:

19 "(b) A person who provides only drop-in or short-term child  
20 care as described in G.S. ~~110-86(2)(d)~~ 110-86(2)(d), excluding  
21 drop-in or short-term child care provided in churches, shall  
22 notify the Department that the person is providing only drop-in  
23 or short-term child care. Any person providing only drop-in or  
24 short-term child care as described in G.S. ~~110-86(2)(d)~~ 110-  
25 86(2)(d), excluding drop-in or short-term child care provided in  
26 churches, shall display in a prominent place at all times a  
27 notice that the child care arrangement is not required to be  
28 licensed and regulated by the Department and is not licensed and  
29 regulated by the Department."

30 Section 5. Section 4(b) of S.L. 1997-506 is repealed.

31 Section 6. G.S. 110-88 reads as rewritten:

32 "§ 110-88. Powers and duties of the Commission.

33 The Commission shall have the following powers and duties:

34 (1) To develop policies and procedures for the issuance  
35 of a license to any child care facility that meets  
36 all applicable standards established under this  
37 Article.

38 (1a) To adopt applicable rules and standards based upon  
39 the capacity of a child care facility.

40 (2) To require inspections by and satisfactory written  
41 reports from representatives of local or State  
42 health agencies and fire inspection agencies and  
43 from representatives of the Department prior to the  
44 issuance of a license to any child care center.

- 1           (2a) To require annually, inspections by and  
2           satisfactory written reports from representatives  
3           of local or State health agencies and fire  
4           inspection agencies after a license is issued.
- 5           (3) Repealed by Session Laws 1997-506, s. 4.
- 6           (4) Repealed by Session Laws 1975, c. 879, s. 15.
- 7           (5) To adopt rules and develop policies for  
8           implementation of this Article, including  
9           procedures for application, approval, annual  
10          compliance visits for centers, and revocation of  
11          licenses.
- 12          (6) To adopt rules for the issuance of a provisional  
13          license that shall be in effect for no more than 12  
14          consecutive months to a child care facility that  
15          does not conform in every respect with the  
16          standards established in this Article and rules  
17          adopted by the Commission pursuant to this Article  
18          but that is making a reasonable effort to conform  
19          to the standards.
- 20          (6a) To adopt rules for administrative action against a  
21          child care facility when the Secretary's  
22          investigations pursuant to G.S. 110-105(a)(3)  
23          substantiate that child abuse or neglect did occur  
24          in the facility. The rules shall provide for types  
25          of sanctions which shall depend upon the severity  
26          of the incident and the probability of  
27          reoccurrence. The rules shall also provide for  
28          written warnings and special provisional licenses.
- 29          (7) (See editor's note) To develop and adopt voluntary  
30          enhanced program standards which reflect higher  
31          quality child care than the mandatory standards  
32          established by this Article. These enhanced program  
33          standards must address, at a minimum, staff/child  
34          ratios, staff qualifications, parent involvement,  
35          operational and personnel policies, developmentally  
36          appropriate curricula, and facility square footage.
- 37          (8) To develop a procedure by which the Department  
38          shall furnish those forms as may be required for  
39          implementation of this Article.
- 40          (9) Repealed by Session Laws 1985, c. 757, s. 156(66).
- 41          (10) To adopt rules for the issuance of a temporary  
42          license which shall expire in six months and which  
43          may be issued to the operator of a new center or to

1 the operator of a previously licensed center when a  
2 change in ownership or location occurs.

3 (11) To adopt rules for child care facilities which  
4 provide care for children who are mildly sick.

5 (12) To adopt rules regulating the amount of time a  
6 child care administrator shall be on-site at a  
7 child care center.

8 ~~The Department of Health and Human Services, Division of Child~~  
9 ~~Development and the Child Care Commission shall not promote or~~  
10 ~~require the utilization of training materials, curriculum, or~~  
11 ~~policy developed or provided by the National Association for the~~  
12 ~~Education of Young Children or the National Institute for Early~~  
13 ~~Childhood Professional Development. The Division and the~~  
14 ~~Commission shall permit individual facilities to make curriculum~~  
15 ~~decisions."~~

16 Section 7. This act becomes effective when it becomes  
17 law.



# SENATE BILL 241: Child Care Law Corrections

## BILL ANALYSIS

Committee: Senate Children & Human  
Resources

Date: April 14, 1999  
Version: S241-PCSSE-001

Introduced by: Senator Phillips  
Summary by: Jo B. McCants  
Committee Co-Counsel

### **SUMMARY:** *This bill makes the following substantive changes:*

- 1) clarifies that the Commission also has the authority to require a building inspection when an initial license is requested in accordance with G.S. 110-91(4) (see attached);*
- 2) requires all staff who will be counted towards meeting the staff-child ratio to be at least 16 years of age and to work under the direct supervision of a staff person who is at least 21;*
- 3) exempts churches who provide drop-in or short-term child care from having to notify the Department of their existence and the requirement that a notice be posted within the facility stating that the facility is not licensed or regulated by the Department;*
- 4) repeals S.L. 1997-506(4b); hence removing the July 1, 1999 sunset on the provision concerning the use of enhanced program standards adopted by the Commission (see S.L. 1997-506 (4b), attached); and*
- 5) deletes the provision that does not allow DHHS, the Division of Child Development or the Commission to promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development.*

### **BILL ANALYSIS:**

**Section 1.** Section 1 clarifies current law to establish the Commission's authority to require a building inspection and a written report from a building inspection agency prior to the issuance of an initial license to any child care center.

**Section 2.** A staff person who is at least 21 years of age must directly supervise a staff person who is at least 16 years of age, and who will be counted towards the staff-child ratio. Current law requires that a *credentialed* staff person who is at least 21 years of age supervise the staff person under 18.

**Section 3.** Section 3 only makes technical changes. The word "operator" is changed to "applicant."

**Section 4.** Section 4 amends current law to exclude churches that offer drop-in or short-term child care from the requirement of notifying the Department that they are providing such care. This section also exempts churches that offer drop-in and short-term child care from having to post a notice that the facility is not licensed or regulated by the Department.

**Section 5.** Section 5 repeals the provision that authorizes the Commission to develop and adopt voluntary enhanced program standards which reflect higher quality child care than the mandatory standards to expire on July 1, 1999.

**Section 6.** Section 6 deletes the provision that does not allow DHHS, the Division of Child Development or the Commission to promote or utilizing materials provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development.

**Section 7.** This act becomes effective when it becomes law.

## § 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

- (1) Commission. - The Child Care Commission created under this Article.
- (2) Child care. - A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:
  - a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
  - b. Recreational programs operated for less than four consecutive months in a year;
  - c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
  - d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
  - e. Public schools;
  - f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
  - g. Bible schools conducted during vacation periods;
  - h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
  - i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
  - j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.
- (2a) Child care administrator. - A person who is responsible for the operation of a child care facility and is on-site on a regular basis.
- (3) Child care facility. - Includes child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.
  - a. A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
  - b. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.
- (4) Repealed by Session Laws 1997-506, s. 3, effective September 16, 1997.
- (4a) Department. - Department of Health and Human Services.
- (5) Repealed by Session Laws 1975, c. 879, s. 15.
- (5a) Lead teacher. - An individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility.
- (6) License. - A permit issued by the Secretary to any child care facility which meets the statutory standards established under this Article.
- (7) Operator. - Includes the owner, director or other person having primary responsibility for operation of a child care facility subject to licensing.
- (8) Secretary. - The Secretary of the Department of Health and Human Services.

## § 110-88. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

- (1) To develop policies and procedures for the issuance of a license to any child care facility that meets all applicable standards established under this Article.
- (1a) To adopt applicable rules and standards based upon the capacity of a child care facility.
- (2) To require inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies and from representatives of the Department prior to the issuance of a license to any child care center.
- (2a) To require annually, inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies after a license is issued.
- (3) Repealed by Session Laws 1997-506, s. 4, effective September 16, 1997.
- (4) Repealed by Session Laws 1975, c. 879, s. 15.
- (5) To adopt rules and develop policies for implementation of this Article, including procedures for application, approval, annual compliance visits for centers, and revocation of licenses.
- (6) To adopt rules for the issuance of a provisional license that shall be in effect for no more than 12 consecutive months to a child care facility that does not conform in every respect with the standards established in this Article and rules adopted by the Commission pursuant to this Article but that is making a reasonable effort to conform to the standards.
- (6a) To adopt rules for administrative action against a child care facility when the Secretary's investigations pursuant to G.S. 110-105(a)(3) substantiate that child abuse or neglect did occur in the facility. The rules shall provide for types of sanctions which shall depend upon the severity of the incident and the probability of reoccurrence. The rules shall also provide for written warnings and special provisional licenses.
- (7) (See editor's note) To develop and adopt voluntary enhanced program standards which reflect higher quality child care than the mandatory standards established by this Article. These enhanced program standards must address, at a minimum, staff/child ratios, staff qualifications, parent involvement, operational and personnel policies, developmentally appropriate curricula, and facility square footage.
- (8) To develop a procedure by which the Department shall furnish those forms as may be required for implementation of this Article.
- (9) Repealed by Session Laws 1985, c. 757, s. 156(66).
- (10) To adopt rules for the issuance of a temporary license which shall expire in six months and which may be issued to the operator of a new center or to the operator of a previously licensed center when a change in ownership or location occurs.
- (11) To adopt rules for child care facilities which provide care for children who are mildly sick.
- (12) To adopt rules regulating the amount of time a child care administrator shall be on-site at a child care center.

The Department of Human Resources, Division of Child Development and the Child Care Commission shall not promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development. The Division and the Commission shall permit individual facilities to make curriculum decisions.

S.L. 1997-506 4(b).

(b) The enhanced program standards adopted by the Commission pursuant to G.S. 110-88(7) shall expire July 1, 1999.

**§ 110-91. Mandatory standards for a license.**

(4) Building. - Each child care facility shall be located in a building which meets the appropriate requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council, subject to adoption by the Commission specifically for child care facilities, including facilities operated in a private residence. These standards shall be consistent with the provisions of this Article. A local building code enforcement officer shall approve any proposed alternate material, design, or method of construction, provided the building code enforcement officer finds that the alternate, for the purpose intended, is at least the equivalent of that prescribed in the technical building codes in quality, strength, effectiveness, fire resistance, durability, or safety. A local building code enforcement officer shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate. The Child Care Commission may request changes to the Building Code to suit the special needs of preschool children. Satisfactorily written reports from representatives of building inspection agencies shall be required prior to the issuance of a license and whenever renovations are made to a child care center, or when the operator requests licensure of space not previously approved for child care.

# VISITOR REGISTRATION SHEET

Children & Human Resources

Name of Committee Children & Human Resources

Date 4-14-99

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Julie Robertson	Smart Start, NC Partnership for Children
CPMell	Covenant w/ NC's Children
AL DE ITED	DDA / YAI
L. Sumner	NC Equity
Paula Hoff	Covenant w/ NC's Children
Starla McHenry	NC DOI
Doreen Phipps	NC DOI
Nancy Gray	DCD / DHHS
Anna Tefft	OSBM
Michael Smith	Gov. Office

# **Agenda**

## **SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**April 21, 1999**

**11:00 AM**

**Call to Order**

<b>SB432</b>	<b>Health Care Personnel Senator Carpenter</b>
<b>SB927</b>	<b>Blind Services Technical Changes Senator Kinnaird</b>
<b>SB934</b>	<b>Handicapped Law Changes Senator Carter</b>
<b>SB947</b>	<b>Local Health Board Rules Senator Lucas</b>
<b>SB998</b>	<b>Cancer Advisory Board/Member Term Senator Odom</b>
<b>SB1015</b>	<b>Toby's Bill Senator Metcalf</b>
<b>SB1062</b>	<b>Substance Abuse Certification Senator Metcalf</b>
<b>SB1134</b>	<b>Welfare Reform Changes Senator William Martin</b>

**Page: Fred Cook Conover, N. C.**  
**Sponsor Senator Allran**

**Sergeants at Arms: Mary Perry**  
**Ronald Spann**  
**Michael Houser**

**Next Meeting**  
**To Be Announced**  
**11:00am Room 544 LOB**

## **Senate Committee on Children & Human resources**

### **Minutes of Wednesday, April 21, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, April 21, 1999 in room 544 of the State Legislative Office Building.

Sixteen (16) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and sergeants-at-arms. Senator Lucas then turned the meeting over to Senator Martin of Pitt.

Senator Forrester was introduced to explain the bill (the bill sponsor Senator Odom was not able to be present) SB998 entitled Cancer Advisory Board/Member Term. Senator Forrester after some discussion moved for a favorable report. The motion carried unanimously.

Senator Carter was introduced to explain his bill SB934 entitled Handicapped Law Changes. Senator Dannelly after some discussion moved for a favorable report. The motion carried unanimously.

Senator Lucas then turned the meeting over to Senator Martin of Pitt. Senator Lucas was introduced to explain her bill SB947 entitled Local Health Board Rules. After much discussion of this bill a decision was made to hold this bill for further discussion. Senator Lucas returned to continue to chair the meeting.

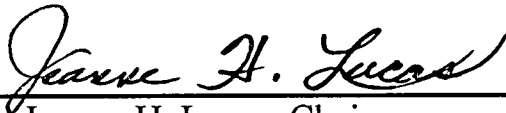
Senator Carpenter was introduced to explain his bill SB432 entitled Health Care Personnel Registry Changes. After some discussion the bill was tabled in order to hear SB927 which only had some technical changes.

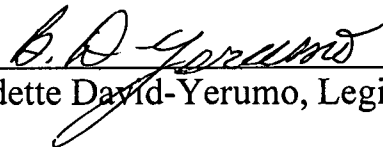
Senator Kinnaird was introduced to explain her bill SB927 entitled Blind Services Technical Changes. After her explanation of the technical changes Senator Dannelly moved for a favorable report. The motion carried unanimously.

The next meeting was scheduled for Wednesday, April 21, 1999.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Wednesday, April 21, 1999

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

**FAVORABLE**

S.B.	927	Blind Services Technical Changes.
		Sequential Referral: None
		Recommended Referral: None
S.B.	934	Handicapped Law Changes.
		Sequential Referral: None
		Recommended Referral: None
S.B.	998	Cancer Advisory Board/Member Terms.
		Sequential Referral: None
		Recommended Referral: None

**TOTAL REPORTED: 3**

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 927

Short Title: Blind Services Technical Changes.

(Public)

Sponsors: Senators Kinnaird; and Phillips.

Referred to: Children & Human Resources.

April 14, 1999

1 A BILL TO BE ENTITLED

2 AN ACT TO MAKE CHANGES NECESSITATED BY CHANGES IN FEDERAL

3 LAW TO THE GENERAL STATUTES CONCERNING SERVICES FOR THE

4 BLIND AND TO MAKE TECHNICAL CHANGES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 111-4 reads as rewritten:

7 "§ 111-4. Register of State's blind- blind and visually impaired.

8 (a) ~~It shall be the duty of the~~ The Department of Health and Human Services to  
9 shall cause to be maintained a complete register of the blind and visually impaired in  
10 the State of North Carolina, ~~which that~~ shall describe the ~~condition, condition and~~  
11 cause of blindness, ~~capacity for education and industrial training~~ blindness of each,  
12 ~~with such each and any other facts as that~~ may seem to the Department of Health and  
13 Human Services to be of value.

14 (b) Whenever, upon examination by a physician, optometrist, or other person  
15 examining eyes, any person is found to be blind or visually impaired, the examiner  
16 shall report the results of the examination to the Department of Health and Human  
17 Services within 30 days after the examination is conducted."

18 Section 2. G.S. 111-5 is repealed.

19 Section 3. G.S. 111-6 reads as rewritten:

20 "§ 111-6. Training schools and workshops; training outside State; sale of products;  
21 direct relief; matching of federal funds.

22 The Department of Health and Human Services may establish one or more  
23 training schools and workshops for employment of suitable blind and visually  
24 impaired persons persons, ~~and shall be empowered to equip and maintain the same;~~

1 ~~these schools and workshops, to pay to employees suitable wages, and to devise~~  
2 ~~means for the sale and distribution of the products thereof, of these schools and~~  
3 ~~workshops, and may cooperate with shops already established.~~ The Department of  
4 Health and Human Services may also pay for lodging, tuition, support and all  
5 necessary expenses for blind and visually impaired persons during their training or  
6 ~~instructions~~ instruction in any suitable occupation, whether it be in industrial,  
7 commercial, ~~or professional~~ professional, or any other establishments, schools or  
8 institutions, or through private instruction ~~wherever~~ when in the judgment of the  
9 Department ~~such~~ of Health and Human Services this instruction or training can be  
10 ~~obtained, when in its judgment obtained and the training or instruction in question~~  
11 will contribute to the efficiency or self-support of ~~such~~ the blind and visually  
12 impaired persons. When special educational opportunities cannot be had within the  
13 State, they may be arranged for, at the discretion of the ~~Department,~~ Department of  
14 Health and Human Services, outside of the State. The Department of Health and  
15 Human Services may ~~also, whenever it thinks proper,~~ also aid individual blind and  
16 visually impaired persons or groups of blind and visually impaired persons to become  
17 self-supporting by furnishing material or equipment to ~~them, and may also assist them~~  
18 and by assisting them in the sale and distribution of their products. Any portion of  
19 the funds appropriated to the Department of Health and Human Services under the  
20 provisions of this Chapter providing for the rehabilitation of the blind and visually  
21 impaired and the prevention of blindness may, when the Commission for the Blind  
22 deems wise, be given in direct money payments to the needy blind in accordance  
23 with the provisions of G.S. 111-13 ~~to 111-26, and whenever through G.S. 111-26.~~  
24 Whenever possible such funds may be matched by funds provided by the federal  
25 Social Security ~~Act.~~ Act, 42 U.S.C. § 301, et seq., as amended."

26 Section 4. G.S. 111-6.1 reads as rewritten:

27 "**§ 111-6.1. Rehabilitation center for the adult blind.**

28 ~~In addition to other powers and duties granted it by law, the~~ The Department of  
29 Health and Human Services ~~is hereby authorized and directed to~~ shall establish and  
30 operate a rehabilitation center for the blind for the purpose of ~~assisting them in their~~  
31 ~~mental, emotional, physical, and economic adjustments to blindness through the~~  
32 ~~application of proper tests, measurements, and intensive training in order that they~~  
33 ~~may develop manual dexterity, obstacle and direction awareness, acceptable work~~  
34 ~~habits, and maximum skills in industrial and commercial processes.~~ evaluating and  
35 providing instruction in specialized independent living, prevocational, and vocational  
36 skills to blind and visually impaired persons to prepare them for obtaining and  
37 maintaining employment.

38 The Commission shall make all rules ~~and regulations~~ necessary for this purpose  
39 and the Department ~~is hereby authorized to~~ of Health and Human Services may enter  
40 into any agreement or contract; to purchase or lease property, both real and personal,  
41 to accept grants and gifts of whatever nature, and to do all other things necessary to  
42 carry out the intent and purposes of ~~such a~~ this rehabilitation center.

43 The Department of Health and Human Services ~~is hereby authorized to~~ may  
44 receive grants-in-aid from the federal government for carrying out the provisions of

1 this section, as well as for other related rehabilitation programs for the North  
2 Carolina blind, under the provisions of the act of Congress known as the  
3 Barden Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190).  
4 Visually handicapped blind and visually impaired persons under the provisions of the  
5 Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq.,  
6 as amended. Blind and visually impaired persons as defined in G.S. 111-11, who are  
7 physically present in North Carolina may enjoy the benefits of this section or any  
8 other related rehabilitation benefits under the Barden Rehabilitation Act.  
9 Rehabilitation Act of 1973, as amended."

10 Section 5. G.S. 111-7 reads as rewritten:

11 "§ 111-7. Promotion visits. In-home services.

12 The Department of Health and Human Services may ameliorate the condition of  
13 the blind by promotion visits among them and teaching them in their homes as the  
14 Department of Health and Human Services may deem advisable. foster maximum  
15 independence of blind and visually impaired persons through the provision of in-  
16 home independent living, development of community-based support groups, and  
17 related services as it deems advisable."

18 Section 6. G.S. 111-8 reads as rewritten:

19 "§ 111-8. Investigations; eye examination and treatment.

20 ~~It shall be the duty of this [the]~~ The Department of Health and Human Services to  
21 shall continue to make inquiries concerning the cause of blindness, to learn what  
22 proportion of these cases are preventable preventable, and to inaugurate and  
23 cooperate in any such measure for the State of North Carolina as may seem wise. it  
24 deems advisable. The Department of Health and Human Services may arrange for  
25 the examination of the eyes of the individual blind and partially blind visually  
26 impaired persons and may secure and pay for medical and surgical treatment for such  
27 these persons whenever in the judgment of a qualified ophthalmologist or optometrist  
28 the eyes of such this person may be benefited thereby. by the treatment."

29 Section 7. G.S. 111-8.1 is repealed.

30 Section 8. G.S. 111-11 reads as rewritten:

31 "§ 111-11. Definition of visually handicapped person. Definitions.

32 For purpose the purposes of this Chapter, visually handicapped persons are those  
33 persons who are totally blind or whose vision with glasses is so defective as to prevent  
34 the performance of ordinary activity for which eyesight is essential. Chapter, the  
35 following definitions apply:

36 (1) "Blind person" means a person who meets any of the following  
37 criteria:

38 a. Is totally blind.

39 b. Has central visual acuity that does not exceed 20/200 in the  
40 better eye with correcting lenses.

41 c. Has a visual field that subtends an angle no greater than 20  
42 degrees at its widest diameter.

43 (2) "Visually impaired person" means a person who meets any of the  
44 following criteria:

- 1           a.   Has a visual acuity of 20/100 or less with best correction  
2               with a progressive eye condition or a 30 degree field  
3               limitation.  
4           b.   Has best corrected central visual acuity of 20/70 or less in  
5               the better eye.  
6           c.   Has a chronic progressive eye pathology.  
7           d.   Has visual acuity better than 20/70 without progressive eye  
8               pathology that results in a functional handicap."

9           Section 9. G.S. 111-12.6 reads as rewritten:

10   **"§ 111-12.6. Disposition of funds deposited with or transferred to State Treasurer.**

11       All funds required under this Article to be deposited with or which have been  
12 ~~heretofore~~ transferred to the State Treasurer by the Bureau of Employment of the  
13 Department of Health and Human Services, and all future net earnings and  
14 accumulations of ~~said the~~ Bureau or its successor, other than the one hundred  
15 thousand dollars (\$100,000) reserve fund ~~herein provided for,~~ provided for in G.S.  
16 111-12.5, from whatever source ~~or sources~~ shall be periodically, but not less  
17 frequently than annually, paid over to and retained by the State Treasurer as a  
18 separate fund or account. The funds deposited with the State Treasurer shall be  
19 invested and the income from the corpus shall inure to the sole benefit of the  
20 Department of Health and Human Services. The income and corpus shall be  
21 expended for services to and for the benefit of ~~visually handicapped blind and~~  
22 visually impaired persons in North Carolina upon recommendation of the  
23 Commission for the Blind, by and with the approval of the Governor as the Director  
24 of the Budget."

25           Section 10. G.S. 111-14 reads as rewritten:

26   **"§ 111-14. Application for benefits under Article; investigation and award by county**  
27 **commissioners.**

28       Any person claiming ~~benefit~~ benefits under this ~~Article,~~ Article shall file with the  
29 commissioners of the county in which he or she is residing an application in writing,  
30 in duplicate, upon forms prescribed by the Department of Health and Human  
31 ~~Services, which~~ Services. This application shall be accompanied by a certificate  
32 signed by a reputable physician licensed to practice medicine in the State of ~~North~~  
33 ~~Carolina and~~ who is actively engaged in the treatment of diseases of the human ~~eye,~~  
34 ~~eye~~ or by an optometrist, whichever the individual may select, ~~to the effect stating~~  
35 that the applicant is ~~blind or that his or her vision with glasses is so defective as to~~  
36 ~~prevent the performance of ordinary activities for which eyesight is essential.~~ blind.  
37 ~~Such~~ This application may be made on the behalf of any ~~such~~ blind person by the  
38 Department of Health and Human ~~Services,~~ Services or by any other person. The  
39 board of county commissioners shall cause an investigation to be made by a qualified  
40 ~~person, or persons,~~ person designated as ~~their agents~~ its agent for this purpose and  
41 shall pass upon the ~~said~~ application without delay, determine the eligibility of the  
42 applicant, and allow or disallow the relief sought. In passing upon the application,  
43 ~~they the~~ the board of county commissioners may take into consideration the facts set  
44 forth in the ~~said application,~~ application and any other facts that are deemed

1 necessary, and may at any time, ~~within their discretion,~~ time require an additional  
2 examination of the applicant's eyes by an ophthalmologist designated by the  
3 Department of Health and Human Services. When satisfied with the merits of the  
4 application, the board of county commissioners shall allow the same application and  
5 grant to the applicant such any proper relief as may be suitable and proper, according  
6 to the rules ~~and standards~~ established by the Commission for the Blind, ~~not~~  
7 ~~inconsistent with this Article and in accordance with the further provisions hereof.~~  
8 Blind."

9           Section 11. G.S. 111-15(1) is repealed.

10           Section 12. G.S. 111-16 reads as rewritten:

11   "**§ 111-16. Application for aid; notice of award; review.**

12       Promptly after an application for aid is made to the board of county commissioners  
13 under this ~~Article~~ Article, the Department of Health and Human Services shall be  
14 notified ~~thereof of the application~~ by mail, ~~mail~~ by ~~said the county commissioners,~~  
15 ~~and one commissioners.~~ One of the duplicate applications for aid made before the  
16 board of county commissioners shall be transmitted with ~~said this~~ this notice.

17       As soon as any award has been made or any application declined by the board of  
18 county commissioners, ~~or any application declined,~~ prompt notice ~~thereof in writing~~  
19 in writing of the award or the declined application shall be forwarded by mail to the  
20 Department of Health and Human Services and to the ~~applicant, in which shall be~~  
21 ~~fully stated applicant.~~ This notice shall fully state the particulars of the award or the  
22 facts of denial. An applicant may appeal an award or denial pursuant to Article 3 of  
23 Chapter 150B of the General Statutes.

24       ~~Within a reasonable time, in accordance with rules and regulations adopted by the~~  
25 ~~Commission for the Blind, after action by the board of county commissioners, the~~  
26 ~~applicant, if dissatisfied therewith, may appeal directly to the Commission for the~~  
27 ~~Blind. Notice of such appeal must be given in writing to the board of county~~  
28 ~~commissioners, and within 30 days after the receipt of such notice the board of~~  
29 ~~county commissioners shall transmit to the Department of Health and Human~~  
30 ~~Services copies of all proceedings and documents, including the award or denial,~~  
31 ~~which may be necessary for the hearing of the said appeal, together with the grounds~~  
32 ~~upon which the action was based.~~

33       ~~As soon as may be practicable after the receipt of the said notice of appeal, the~~  
34 ~~Commission for the Blind shall notify the applicant of the time and place where the~~  
35 ~~hearing of such appeal will be had. The members of the Commission for the Blind~~  
36 ~~shall hear the said appeal under such rules and regulations not inconsistent with this~~  
37 ~~Article as it may establish, and shall provide for granting an individual whose claim~~  
38 ~~for aid is denied an opportunity for fair hearing before said Commission for the~~  
39 ~~Blind, and their decision shall be final. Any notice required to be given herein may~~  
40 ~~be given by mail or by personally delivering in writing such notice to the clerk of the~~  
41 ~~board of county commissioners or the executive director of the Department of Health~~  
42 ~~and Human Services, except that notice of the time and place where the hearings of~~  
43 ~~such appeals will be had shall be given by mail or by personal delivery of such notice~~  
44 ~~in writing direct to the applicant.~~

1 ~~In all cases where an appeal shall have been taken by the applicant, the~~  
2 ~~Commission for the Blind shall carefully examine such award or decision, as the case~~  
3 ~~may be, and shall in their discretion, approve, increase, allow or disallow any award~~  
4 ~~so made. Immediately thereafter they shall notify the board of county commissioners~~  
5 ~~and the applicant of such action; and if the award made by the board of county~~  
6 ~~commissioners is changed, notice thereof shall be given by mail to the applicant and~~  
7 ~~the board of county commissioners, giving the extent and manner in which any award~~  
8 ~~has been changed.~~

9 ~~If, in the absence of any appeal by the applicant, the North Carolina Department~~  
10 ~~of Health and Human Services shall make any determination increasing or decreasing~~  
11 ~~the award allowing or disallowing the same, not inconsistent with the rules and~~  
12 ~~regulations promulgated by the Commission for the Blind, the applicant or board of~~  
13 ~~county commissioners shall have the right, within 10 days from notice thereof, to~~  
14 ~~have such order reviewed by the Commission for the Blind. The procedure in such~~  
15 ~~cases shall be as provided in the section on appeals to the Commission by the~~  
16 ~~applicant."~~

17 Section 13. G.S. 111-18.1(b) reads as rewritten:

18 "(b) In the event of the death of a recipient of a cash payment service, as defined  
19 ~~by regulation of the N. C. Commission for the Blind, which service that~~ was rendered  
20 as a part of a program of public assistance for the blind or visually ~~handicapped,~~  
21 impaired, any check ~~or checks~~ issued for the payment of ~~such that~~ service made  
22 payable to ~~such that~~ recipient, but not endorsed prior to ~~his the~~ recipient's death,  
23 shall be returned to the issuing agency and made void. The issuing agency shall then  
24 issue a check payable to the provider of ~~such the~~ service for the sum remaining due  
25 for this service, not to exceed the amount of ~~said the~~ returned and voided ~~check or~~  
26 ~~checks. check."~~

27 Section 14. G.S. 111-27 reads as rewritten:

28 "**§ 111-27. Department of Health and Human Services to promote employment of**  
29 **needy blind persons; vending stands on public property.**

30 For the purpose of assisting blind persons to become self-supporting, the  
31 Department of Health and Human Services ~~is hereby authorized to may~~ carry on  
32 activities to promote the employment of needy blind persons, including the licensing  
33 and establishment of ~~such blind~~ persons as operators of vending stands in public  
34 buildings. The ~~said~~ Department of Health and Human Services may cooperate with  
35 the federal government in the furtherance of the ~~provisions of the act of Congress~~  
36 ~~known as the Randolph Sheppard Bill (H.R. 4688) Randolph-Sheppard Vending~~  
37 Stand Act, 20 U.S.C. § 107-107f, as amended, providing for the licensing of blind  
38 persons to operate vending stands in federal buildings, or any other ~~aets~~ act of  
39 Congress ~~which that~~ may be ~~hereafter~~ enacted.

40 The board of county commissioners of each county and the commissioners or  
41 officials in charge of various State and municipal buildings ~~are hereby authorized and~~  
42 ~~empowered to may~~ permit the operation of vending stands by ~~needy~~ blind persons on  
43 the premises of any State, county or municipal property under their respective  
44 ~~jurisdictions. Provided, that such~~ jurisdictions. These operators shall be first licensed

1 by the Department of Health and Human Services. ~~Provided further, that Services.~~  
2 Additionally, no vending stands may be operated unless, in the opinion of the  
3 commissions or officials having control and custody of ~~such the~~ the property, ~~such the~~  
4 vending stands may be properly and satisfactorily operated on ~~such the~~ the premises  
5 without undue interference with the use and needs ~~thereof~~ of the premises or  
6 property for public purposes."

7 Section 15. G.S. 111-27.1 reads as rewritten:

8 "**§ 111-27.1. Department of Health and Human Services authorized to conduct certain**  
9 **business operations.**

10 For the purpose of assisting blind and visually impaired persons to become self-  
11 supporting the Department of Health and Human Services ~~is hereby authorized to~~  
12 may carry on activities to promote the rehabilitation and employment of the ~~blind,~~  
13 blind and visually impaired, including employment in or the operation of various  
14 business enterprises suitable for the blind ~~to be employed in or to operate. and~~  
15 visually impaired. The Executive Budget Act ~~shall apply~~ applies to the operation of  
16 ~~such these~~ enterprises as to all appropriations made by the State to aid in the  
17 organization and the establishment of ~~such these~~ businesses. Purchases and sales of  
18 merchandise or equipment, the payment of rents and wages to blind and visually  
19 impaired persons operating ~~such these~~ businesses, and other expenses ~~thereof, of~~  
20 these businesses from funds derived from local subscriptions and from the day-by-day  
21 operations ~~shall not be~~ are not subject to the provisions of law regulating purchases  
22 and contracts, or to the deposit and disbursement ~~thereof applicable that apply to~~  
23 State funds but shall be supervised by the Department of Health and Human  
24 Services. All of the business operations under this law, ~~however, shall be law are~~  
25 subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of  
26 the General Statutes.

27 ~~After September 30, 1983, Randolph-Sheppard vendors will no longer be~~ are not  
28 State employees. Blind licensees operating vending facilities under contract with the  
29 ~~North Carolina~~ Department of Health and Human Services, Division of Services for  
30 the Blind, are independent contractors."

31 Section 16. G.S. 111-28 reads as rewritten:

32 "**§ 111-28. Department of Health and Human Services authorized to receive federal,**  
33 **etc., grants for benefit of needy-blind; blind and visually impaired; use of information**  
34 **concerning blind persons.**

35 The Department of Health and Human Services ~~is hereby authorized and~~  
36 ~~empowered to~~ may receive grants-in-aid from the federal government or any State or  
37 federal agency for the purpose of rendering other services to the ~~needy-blind blind,~~  
38 visually impaired, and those in danger of becoming ~~blind, and all such blind.~~ All of  
39 ~~these grants so made and received~~ shall be paid into the State ~~treasury~~ Treasury and  
40 credited to the account of the Department of Health and Human Services, to be used  
41 in carrying out the provisions of this law.

42 The Commission for the Blind ~~is hereby further authorized and empowered to~~  
43 ~~make such~~ may adopt rules ~~and regulations~~ as may be required by the federal

1 government or State or federal agency as a condition for receiving ~~such~~ these federal  
2 funds, not inconsistent with the laws of this State.

3 ~~Whenever the words "Social Security Board" appear in G.S. 111-6, 111-13 to~~  
4 ~~111-26 the same shall be interpreted to include any agency of the federal government~~  
5 ~~which may be substituted therefor by law.~~

6 The Department of Health and Human Services ~~is hereby authorized and~~  
7 ~~empowered to~~ may enter into reciprocal agreements with public welfare agencies in  
8 other states ~~relative to the provision of~~ regarding assistance and services to residents,  
9 nonresidents, or transients, and cooperate with other agencies of the State and federal  
10 governments in the provisions of ~~such~~ assistance and services and in the study of the  
11 problems involved.

12 The Department of Health and Human Services ~~is hereby authorized and~~  
13 ~~empowered to~~ may establish and enforce reasonable rules ~~and regulations~~ governing  
14 the custody, use and preservation of the records, papers, files, and communications of  
15 the Department.

16 It ~~shall be~~ is unlawful, except for purposes directly connected with the  
17 administration of aid to the ~~needy~~ blind and visually impaired and in accordance  
18 with the rules ~~and regulations~~ of the Department of Health and Human Services, for  
19 any person ~~or persons~~ to solicit, disclose, receive, make use of, or to authorize,  
20 knowingly permit, participate in, or acquiesce in the use of, any list of or name of, or  
21 any information concerning, persons applying for or receiving aid to the ~~needy blind,~~  
22 blind and visually impaired, directly or indirectly derived from the records, papers,  
23 files, or communications of the Department of Health and Human ~~Services or~~  
24 Services, the board of county ~~commissioners~~ commissioners, or the county social  
25 services department, or acquired in the course of the performance of official duties.

26 ~~Notwithstanding the above, the~~ The Department of Health and Human Services is  
27 ~~authorized to~~ may release to the ~~North Carolina Department~~ Division of Motor  
28 Vehicles ~~in the Department of Transportation and to the North Carolina Department~~  
29 of Revenue the name and medical records of any person listed in the register of the  
30 blind and visually impaired in this State maintained under the provisions of G.S. 111-  
31 4. All information and documents released to the ~~Department~~ Division of Motor  
32 Vehicles and the Department of Revenue shall be treated by ~~those departments~~ them  
33 as confidential for their use only and shall not be released by them to any person for  
34 commercial or political purposes or for any purpose not directly connected with the  
35 administration of Chapters 20 and 105 of the General ~~Statutes of this State.~~ Statutes.  
36 The Department of Health and Human Services may also release to the North  
37 Carolina Library for the Blind and Physically Handicapped of the Department of  
38 Cultural Resources, the name and address of any person listed in the register of the  
39 blind and visually impaired in this State maintained under the provisions of G.S. 111-  
40 4. All information released to the North Carolina Library for the Blind and Physically  
41 Handicapped shall be treated as confidential for its use only and shall not be released  
42 to any person for commercial or political purposes or for any purpose not directly  
43 connected with providing information concerning services offered by the North  
44 Carolina Library for the Blind and Physically Handicapped."

1 Section 17. G.S. 111-28.1 reads as rewritten:

2 "**§ 111-28.1. Department of Health and Human Services authorized to cooperate with**  
3 **federal government in rehabilitation of ~~blind~~ blind and visually impaired.**

4 The Department of Health and Human Services ~~is hereby authorized and~~  
5 ~~empowered to make~~ may adopt the necessary rules and regulations to cooperate with  
6 the federal government in the furtherance of the ~~provisions of the act of Congress~~  
7 ~~known as the Barden Rehabilitation Act (Volume 57, United States Statutes at Large,~~  
8 ~~Chapter 190) Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C.~~  
9 ~~§ 701, et seq., as amended, providing for the rehabilitation of the ~~blind~~ blind and~~  
10 ~~visually impaired.~~"

11 Section 18. G.S. 111-41 reads as rewritten:

12 "**§ 111-41. Preference to ~~visually handicapped~~ blind persons in operation of vending**  
13 **facilities; responsibility of Department of Health and Human Services.**

14 In order to promote the employment and the self-sufficiency of ~~visually~~  
15 ~~handicapped~~ blind persons in North Carolina, State agencies shall upon the request  
16 of the Department of Health and Human Services give preference to ~~visually~~  
17 ~~handicapped~~ blind persons in the operation of vending facilities on State property.  
18 The Department of Health and Human Services shall encourage and assist the  
19 operation of vending facilities by ~~visually handicapped~~ blind persons."

20 Section 19. G.S. 111-42(e) is repealed.

21 Section 20. G.S. 111-43 reads as rewritten:

22 "**§ 111-43. Installation of coin-operated vending machines.**

23 In locations where the Department of Health and Human Services determines that  
24 a vending facility may not be operated or should not continue to operate due to  
25 insufficient revenues to support a blind vendor or due to the lack of qualified blind  
26 applicants, the Department shall have the first opportunity to secure, by negotiation  
27 of a contract with one or more licensed commercial vendors, coin-operated vending  
28 machines for the location. Profits from coin-operated vending machines secured by  
29 the Department of Health and Human Services shall be used by the Department for  
30 the support of programs that enable blind and visually impaired people to live more  
31 independently, including medical, rehabilitation, independent living, and educational  
32 services offered by the Division of Services for the Blind."

33 Section 21. G.S. 111-44 reads as rewritten:

34 "**§ 111-44. Location and services provided by State agency.**

35 If the Department of Health and Human Services ~~shall determine~~ determines that  
36 a location is suitable for the operation of a vending facility by a ~~visually handicapped~~  
37 blind person, the State agency with authority over the location shall provide proper  
38 space, plumbing, lighting, and electrical outlets for the vending facility in the original  
39 planning and construction, or in the alteration and renovation of the present location.  
40 The State agency shall provide necessary utilities, janitorial ~~services~~ service, and  
41 garbage disposal for the operation of the vending facility. Space and services for the  
42 vending facilities ~~and service therefor~~ shall be provided without charge."

43 Section 22. G.S. 111-45 reads as rewritten:

1 "§ 111-45. Duty of State agency to inform ~~Department: the Department of Health and~~  
2 Human Services.

3 It shall be the duty of the State agencies to inform the Department of Health and  
4 Human Services of existing and prospective locations for vending facilities and coin-  
5 operated vending machines and to ~~prescribe regulations (upon adopt rules, upon~~  
6 request of the ~~Department)~~ Department, to promote the successful operation of the  
7 vending facilities of the ~~visually handicapped: blind.~~

8 Section 23. G.S. 111-46 reads as rewritten:

9 "§ 111-46. Vending facilities operated by those other than ~~visually handicapped~~ blind  
10 persons.

11 Where vending facilities on State property are operated by those other than ~~the~~  
12 ~~visually handicapped~~ blind persons on the date of enactment of this Article, the  
13 contract of these vending facilities shall not be renewed or extended unless the  
14 Secretary of the Department of Health and Human Services is notified ~~thereof of the~~  
15 proposed renewal or extension and ~~he~~ the Secretary determines within 30 days of  
16 ~~such~~ this notification that the vending facilities are not, or cannot become, suited for  
17 operation by the ~~visually handicapped: blind.~~ However, if ~~If~~ the Secretary of the  
18 Department of Health and Human Services within 30 days of the date of ~~such~~ this  
19 notification fails to provide for the operation of the vending facilities by the ~~visually~~  
20 ~~handicapped, blind,~~ the existing contract may be renewed or extended."

21 Section 24. G.S. 111-50(b)(3) is repealed.

22 Section 25. G.S. 111-50 is amended by adding a new subsection to read:

23 "(c) The Commission for the Blind may adopt rules to change applicable set-aside  
24 rates for the Business Enterprises Program consistent with the needs of the Business  
25 Enterprises Program."

26 Section 26. G.S. 143B-157(3b) reads as rewritten:

27 "(3b) The Commission shall advise the Department regarding  
28 preparation of applications, the State Plan, ~~the strategic plan,~~  
29 ~~amendments to these plans,~~ this plan, the State needs assessments,  
30 and the evaluations required by the federal rehabilitation program;  
31 and in partnership with the Department develop, agree to, and  
32 review State goals and priorities;"

33 Section 27. G.S. 143B-157(3e) reads as rewritten:

34 "(3e) The Commission shall coordinate with other councils within the  
35 State, including the statewide Independent Living Council  
36 established under section 705 of the federal Rehabilitation Act, ~~294~~  
37 ~~29~~ U.S.C. § 720, et seq., the advisory panel established under  
38 ~~section 613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities  
39 Education Act, 20 U.S.C. § 1413(A)(12), the ~~State Planning~~  
40 Council on Developmental Disabilities described in section 124 of  
41 the Developmental Disabilities Assistance and Bill of Rights Act,  
42 42 U.S.C. § 6024, ~~and~~ the State Mental Health Planning Council  
43 established pursuant to section 1916(e) of the Public Health

1 Service Act, 42 U.S.C. § ~~300x-4(e)~~; 300x-4(e), and the Commission  
2 on Workforce Preparedness."

3 Section 28. G.S. 143B-158 reads as rewritten:

4 "**§ 143B-158. Commission for the Blind -- members; selection; quorum; compensation.**

5 The Commission for the Blind of the Department of Health and Human Services  
6 shall consist of ~~11~~ 13 members appointed by the Governor. ~~No~~ A physician, ~~no~~  
7 optometrist, ~~no~~ optician, ~~no~~ ~~oculist~~, or oculist ~~nor any other person who receives~~  
8 ~~services or funds regulated by the Commission shall be qualified to~~ shall not serve on  
9 the Commission for the Blind. Any person who is presently a member of the  
10 Commission and is disqualified ~~by reason of the preceding sentence~~ under this  
11 section shall ~~be deemed to have resigned~~ resign his or her position on the  
12 ~~Commission. The Commission and the~~ Governor shall appoint a successor for the  
13 balance of the unexpired term. At all times at least ~~six~~ seven members of the  
14 Commission shall be persons who are visually ~~handicapped~~ impaired to the minimum  
15 extent of being legally blind. The members of the Commission shall be appointed for  
16 terms of ~~six~~ three years and shall serve until their successors are appointed and  
17 qualify. No individual may be appointed to more than two consecutive three-year  
18 terms. Any appointment to fill a vacancy on the Commission created by the  
19 resignation, dismissal, death, or disability of a member shall be for the balance of the  
20 unexpired term.

21 The Governor ~~shall have the power to~~ may remove any member of the  
22 Commission from office for misfeasance, malfeasance, or nonfeasance in accordance  
23 with ~~the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.~~ 143B-  
24 13.

25 The members of the Commission shall receive per diem and necessary travel and  
26 subsistence expenses in accordance with ~~the provisions of~~ G.S. 138-5.

27 A majority of the Commission ~~shall constitute~~ constitutes a quorum for the  
28 transaction of business.

29 All clerical and other services required by the Commission shall be supplied by the  
30 Secretary of Health and Human Services."

31 Section 29. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 998

Short Title: Cancer Advisory Board/Member Terms.

(Public)

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Sponsors: Senator Odom.

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Referred to: Children & Human Resources.

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April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT MEMBERS APPOINTED TO THE CANCER  
3 CONTROL ADVISORY COMMITTEE FOR INITIAL TWO-YEAR TERMS  
4 MAY EACH BE REAPPOINTED FOR ONE ADDITIONAL FOUR-YEAR  
5 TERM.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. Notwithstanding G.S. 130A-33.50(b), members of the Advisory  
8 Committee on Cancer Coordination and Control appointed in 1993 to serve initial  
9 two-year terms may be reappointed for one additional four-year term commencing  
10 upon the expiration of the current terms of those members.  
11 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 934\*

Short Title: Handicapped Law Changes.

(Public)

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Sponsors: Senators Carter; Albertson, Clodfelter, Cooper, Dannelly, Gulley, Harris, Horton, Hoyle, Martin of Pitt, Metcalf, Perdue, Rand, and Soles.

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Referred to: Children & Human Resources.

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April 14, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE HANDICAPPED PERSONS  
3 PROTECTION ACT, CHAPTER 168A OF THE GENERAL STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 168A of the General Statutes reads as rewritten:

6 "Chapter 168A.

7 "~~Handicapped~~ Persons With Disabilities Protection Act.

8 "§ 168A-1. Title.

9 This Chapter may be cited as the North Carolina ~~Handicapped~~ Persons With  
10 Disabilities Protection Act.

11 "§ 168A-2. Statement of purpose.

12 (a) The purpose of this Chapter is to encourage and enable all ~~handicapped people~~  
13 persons with disabilities to participate fully to the maximum extent of their abilities in  
14 the social and economic life of the State, to engage in remunerative employment, to  
15 use available public accommodations and public services, and to otherwise pursue  
16 their rights and privileges as inhabitants of this State.

17 (b) The General Assembly finds that: the practice of discrimination based upon a  
18 ~~handicapping disabling~~ condition is contrary to the public interest and to the  
19 principles of freedom and equality of opportunity; the practice of discrimination on  
20 the basis of a ~~handicapping disabling~~ condition threatens the rights and proper  
21 privileges of the inhabitants of this State; and such discrimination results in a failure  
22 to realize the productive capacity of individuals to their fullest extent.

## 1 "§ 168A-3. Definitions.

2 As used in this Chapter, unless the context otherwise requires, ~~the term requires:~~3 (1) "Discriminatory practice" means any practice prohibited by this  
4 Chapter.5 (2) "Employer" means any person employing 15 or more full-time  
6 employees within the State, but excluding a person whose only  
7 employees are hired to work as domestic or farm workers at that  
8 person's home or farm.9 (3) "Employment agency" means a person regularly undertaking with  
10 or without compensation to procure for employees opportunities to  
11 work for an employer and includes an agent of such a person.12 (4) ~~"Handicapped person"~~ "Person with a disability" means any  
13 person who (i) has a physical or mental impairment which  
14 substantially limits one or more major life activities; (ii) has a  
15 record of such an impairment; or (iii) is regarded as having such  
16 an impairment. As used in this subdivision, the term:17 a. "Physical or mental impairment" means (i) any physiological  
18 disorder or abnormal condition, cosmetic disfigurement, or  
19 anatomical loss, caused by bodily injury, birth defect or  
20 illness, affecting one or more of the following body systems:  
21 neurological; musculoskeletal; special sense organs;  
22 respiratory, including speech organs; cardiovascular;  
23 reproductive; digestive; genitourinary; hemic and lymphatic;  
24 skin; and endocrine; or (ii) any mental disorder, such as  
25 mental retardation, organic brain syndrome, mental illness,  
26 specific learning disabilities, and other developmental  
27 disabilities, but (iii) excludes (A) sexual preferences; (B)  
28 active alcoholism or drug addiction or abuse; and (C) any  
29 disorder, condition or disfigurement which is temporary in  
30 nature leaving no residual impairment.31 b. "Major life activities" means functions such as caring for  
32 one's self, performing manual tasks, walking, seeing,  
33 hearing, speaking, breathing, ~~and learning.~~ learning, and  
34 working.35 c. "Has a record of such an impairment" means has a history  
36 of, or has been misclassified as having, a mental or physical  
37 impairment that substantially limits major life activities.38 d. "Is regarded as having an impairment" means (i) has a  
39 physical or mental impairment that does not substantially  
40 limit major life activities but that is treated as constituting  
41 such a limitation; (ii) has a physical or mental impairment  
42 that substantially limits major life activities because of the  
43 attitudes of others; or (iii) has none of the impairments

- defined in paragraph a. of this subdivision but is treated as having such an impairment.
- (5) ~~"Handicapping~~ "Disabling condition" means any condition or characteristic that renders a person a ~~handicapped person~~ person with a disability.
- (6) "Labor organization" means an organization of any kind, an agency or employee representation committee, a group association, or a plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
- (7) "Person" includes any individual, partnership, association, corporation, labor organization, legal representative, trustee, receiver, and the State and its departments, agencies, and political subdivisions.
- (8) "Place of public accommodations" includes, but is not limited to, any place, facility, store, other establishment, hotel, or motel, which supplies goods or services on the premises to the public or which solicits or accepts the patronage or trade of any person.
- (9) ~~"Qualified handicapped person"~~ "person with a disability" means:
- a. With regard to employment, a ~~handicapped person~~ person with a disability who can satisfactorily perform the duties of the job in question, with or without reasonable accommodation, (i) provided that the ~~handicapped person~~ person with a disability shall not be held to standards of performance different from other employees similarly employed, and (ii) further provided that the ~~handicapping disabling~~ condition does not create an unreasonable risk to the safety or health of the ~~handicapped person~~ person with a disability, other employees, the employer's customers, or the public;
  - b. With regard to places of public accommodation a ~~handicapped person~~ person with a disability who can benefit from the goods or services provided by the place of public accommodation; and
  - c. With regard to public services and public transportation a ~~handicapped person~~ person with a disability who meets prerequisites for participation that are uniformly applied to all participants, such as income or residence, and that do not have the effect of discriminating against ~~the handicapped persons with a disability~~.
- (10) "Reasonable accommodations" means:
- a. With regard to employment, making reasonable physical changes in the workplace, including, but not limited to, making facilities accessible, modifying equipment and providing mechanical aids to

1 assist in operating equipment, or making reasonable changes in the  
2 duties of the job in question that would accommodate the known  
3 ~~handicapping disabling~~ conditions of the ~~handicapped~~ person with  
4 a disability seeking the job in question by enabling him or her to  
5 satisfactorily perform the duties of that job; provided that  
6 "reasonable accommodation" does not require that an employer:

- 7 1. Hire one or more employees, other than the  
8 ~~handicapped person, person with a disability~~, for the  
9 purpose, in whole or in part, of enabling the  
10 ~~handicapped person with a disability~~ to be employed;  
11 or
- 12 2. Reassign duties of the job in question to other  
13 employees without assigning to the ~~handicapped~~  
14 employee with a disability duties that would  
15 compensate for those reassigned; or
- 16 3. Reassign duties of the job in question to one or more  
17 other employees where such reassignment would  
18 increase the skill, effort or responsibility required of  
19 such other employee or employees from that required  
20 prior to the change in duties; or
- 21 4. Alter, modify, change or deviate from bona fide  
22 seniority policies or practices; or
- 23 5. Provide accommodations of a personal nature,  
24 including, but not limited to, eyeglasses, hearing aids,  
25 or prostheses, except under the same terms and  
26 conditions as such items are provided to the  
27 employer's employees generally; or
- 28 6. Make physical changes to accommodate a  
29 ~~handicapped person with a disability~~ where:
  - 30 I. For a new employee the cost of such changes  
31 would exceed five percent (5%) of the annual  
32 salary or annualized hourly wage for the job in  
33 question; or
  - 34 II. For an existing employee the cost of the  
35 changes would bring the total cost of physical  
36 changes made to accommodate the employee's  
37 ~~handicapping disabling~~ conditions since the  
38 beginning of the employee's employment with  
39 the employer to greater than five percent (5%)  
40 of the employee's current salary or current  
41 annualized hourly wage; or
- 42 7. Make any changes that would impose on the  
43 employer an undue hardship, provided that the costs  
44 of less than five percent (5%) of an employee's salary

1 or annualized wage as determined in subsection (6)  
2 above shall be presumed not to be an undue  
3 hardship.

- 4 b. With regard to a place of public accommodations, making  
5 reasonable efforts to accommodate the ~~handicapping~~  
6 ~~disabling~~ conditions of a ~~handicapped person; person with a~~  
7 ~~disability~~, including, but not limited to, making facilities  
8 accessible to and usable by ~~handicapped persons; persons~~  
9 ~~with a disability~~, redesigning equipment, provide mechanical  
10 aids or other assistance, or using alternative accessible  
11 locations, provided that reasonable accommodations does  
12 not require efforts which would impose an undue hardship  
13 on the entity involved.

14 **"§ 168A-4. Reasonable accommodation duties.**

15 (a) A qualified ~~handicapped~~ person with a disability requesting a reasonable  
16 accommodation must apprise the employer, employment agency, labor organization,  
17 or place of public accommodation of his or her ~~handicapping disabling~~ condition,  
18 submit any necessary medical documentation, make suggestions for such possible  
19 accommodations as are known to such ~~handicapped person; person with a disability~~,  
20 and cooperate in any ensuing discussion and evaluation aimed at determining  
21 possible or feasible accommodations.

22 (b) Once a qualified ~~handicapped~~ person with a disability has requested an  
23 accommodation, or if a potential accommodation is obvious in the circumstances, an  
24 employer, employment agency, labor organization or place of public accommodation  
25 shall investigate whether there are reasonable accommodations that can be made and  
26 make reasonable accommodations as defined in G.S. 1 68A-3(10).

27 **"§168A-5. Discrimination in employment; exemptions.**

28 (a) Discriminatory practices. -- It is a discriminatory practice for:

- 29 (1) An employer to fail to hire or consider for employment or  
30 promotion, to discharge, or otherwise to discriminate against a  
31 qualified ~~handicapped~~ person with a disability on the basis of a  
32 ~~handicapping disabling~~ condition with respect to compensation or  
33 the terms, conditions, or privileges of employment;  
34 (2) An employment agency to fail or refuse to refer for employment,  
35 or otherwise to discriminate against a qualified ~~handicapped~~  
36 person with a disability on the basis of a ~~handicapping disabling~~  
37 condition;  
38 (3) A person controlling an apprenticeship, on-the-job, or other  
39 training or retraining program, to discriminate against a qualified  
40 ~~handicapped~~ person with a disability on the basis of a  
41 ~~handicapping disabling~~ condition in admission to, or employment  
42 in, a program established to provide apprenticeship or other  
43 training; or

- 1 (4) An employer or employment agency to require an applicant to  
2 identify himself as ~~handicapped~~ a person with a disability prior to  
3 a conditional offer of employment; however, any employer may  
4 invite an applicant to identify himself as ~~handicapped~~ a person  
5 with a disability in order to act affirmatively on his ~~behalf~~. behalf;  
6 or  
7 (5) An employer, labor organization, or employment agency to fail to  
8 meet the duties imposed on them by G.S. 168A-4(b).

9 (b) Exemptions. -- It is not a discriminatory action for an employer, employment  
10 agency, or labor organization:

- 11 (1) To make an employment decision on the basis of State and federal  
12 laws or regulations imposing physical, health, mental or  
13 psychological job requirements;  
14 (2) To fail to hire, transfer or promote, or to discharge a ~~handicapped~~  
15 person with a disability who has a history of drug abuse or who is  
16 unlawfully using drugs where the job in question is in an  
17 establishment that manufactures, distributes, dispenses, conducts  
18 research, stores, sells or otherwise handles controlled substances  
19 regulated by the North Carolina Controlled Substances Act, G.S.  
20 90-86 et seq.;  
21 (3) To fail to hire, transfer, or promote, or to discharge a ~~handicapped~~  
22 person with a disability because the person has a communicable  
23 disease which would disqualify a ~~non-handicapped~~ person without  
24 a disability from similar employment;  
25 (4) To fail to make reasonable accommodations where the  
26 ~~handicapped~~ person with a disability has not fulfilled the duties  
27 imposed by G.S. 168A-4;  
28 (5) To inquire whether a person has the ability to perform the duties  
29 of the job in question;  
30 (6) To require or request a person to undergo a medical examination,  
31 which may include a medical history, for the purpose of  
32 determining the person's ability or capacity to safely and  
33 satisfactorily perform the duties of available jobs for which the  
34 person is otherwise qualified, or to aid in determining possible  
35 accommodations for a ~~handicapping~~ disabling condition, provided  
36 (i) that an offer of employment has been made on the condition  
37 that the person meets the physical and mental requirements of the  
38 job with or without reasonable accommodation; and (ii) that the  
39 examination, unless limited to determining the extent to which a  
40 person's ~~handicapping~~ disabling condition would interfere with his  
41 or her ability or capacity to safely and satisfactorily perform the  
42 duties of the the job in question or the possible accommodations  
43 for a ~~handicapping~~ disabling condition, is required of all persons

1 conditionally offered employment for the same position regardless  
2 of ~~handicapping~~ disabling condition;

3 (7) To obtain medical information or to require or request a medical  
4 examination where such information or examination is for the  
5 purpose of establishing an employee health record;

6 (8) To administer pre-employment tests, provided that the tests (i)  
7 measure only job-related abilities, (ii) are required of all applicants  
8 for the same position unless such tests are limited to determining  
9 the extent to which the person's ~~handicapping~~ disabling condition  
10 would interfere with his or her ability to safely and satisfactorily  
11 perform the duties of the job in question or the possible  
12 accommodations for the job in question, and (iii) accurately  
13 measure the applicant's aptitude, achievement level, or whatever  
14 factors they purport to measure rather than reflecting the  
15 ~~handicapped person's~~ impaired sensory, manual or speaking skills  
16 of a person with a disability except when those skills are  
17 requirements of the job in question, provided that an employer  
18 shall not be liable for improper testing which was administered by  
19 a State agency acting as an employment agency.

20 "§ 168A-6. Discrimination in public accommodations.

21 It is a discriminatory practice for a person to deny a qualified ~~handicapped~~ person  
22 with a disability the full and equal enjoyment of the goods, services, facilities,  
23 privileges, advantages, and accommodations of a place of public accommodation on  
24 the basis of a ~~handicapping~~ disabling condition. In the area of structural  
25 modifications, this section may be satisfied by compliance with the North Carolina  
26 Building Code.

27 "§ 168A-7. Discrimination in public service.

28 It is a discriminatory practice for a State department, institution, or agency, or any  
29 political subdivision of the State or any person that contracts with the above for the  
30 delivery of public services including but not limited to education, health, social  
31 services, recreation, and rehabilitation, to refuse to provide reasonable aids and  
32 adaptations necessary for a known qualified ~~handicapped~~ person with a disability to  
33 use or benefit from existing public services operated by such entity; provided that the  
34 aids and adaptations do not impose an undue hardship on the entity involved.

35 "§ 168A-8. Discrimination in public transportation.

36 It is a discriminatory practice for any transportation system providing  
37 transportation to the general public to fail to ensure access to and the benefits of  
38 public transportation to a qualified ~~handicapped person; person with a disability;~~  
39 however, public transportation systems may use alternative methods to provide  
40 transportation for ~~handicapped persons; persons with a disability,~~ as long as  
41 ~~handicapped~~ persons with a disability are offered transportation that, in relation to  
42 the transportation offered to other persons, is:

- 43 (1) In a similar geographic area of operation;  
44 (2) For fares not greater in price;

- (3) With similar or no restrictions as to trip purpose;
- (4) With reasonable response time; and
- (5) With similar hours of operations.

Nothing in this section shall apply to privately owned, local transit or transportation systems existing on October 1, 1985, or to interstate air carriers complying with federal regulations promulgated by the Civil Aeronautics Board and administered by the United States Department of Transportation.

**"§ 168A-9. Affirmative defenses.**

Any employer may assert affirmative defenses in any action brought under this Chapter. This section shall not create any inference that an employment action which is not listed as an affirmative defense is therefore, by implication, a discriminatory practice, so long as the employment action is not otherwise prohibited by this Chapter. The following is a non-exclusive list of affirmative defenses:

- (1) The ~~qualified handicapped person's~~ failure of the qualified person with a disability to comply with or meet the employer's work rules and policies or performance standards, provided that such person is not held to rules or standards different from other ~~non-handicapped~~ employees without a disability similarly employed;
- (2) The ~~qualified handicapped person's~~ excessive, willful or habitual tardiness or ~~absence~~, absence of a qualified person with a disability, provided that the standard used by the employer in determining whether such tardiness or absence is excessive is the same as that applied by the employer to ~~non-handicapped~~ employees without a disability similarly employed; or
- (3) A bona fide seniority or merit system, or a system which measures earnings by quantity or quality of work or production, or differences in location of employment.

**"§ 168A-10. Retaliation prohibited.**

No employer shall discharge, expel, refuse to hire, or otherwise discriminate against any person or applicant for employment, nor shall any employment agency discriminate against any person, nor shall a labor organization discriminate against any member or applicant for membership because such person has opposed any practice made a discriminatory practice by this Chapter or because he has testified, assisted or participated in any manner in proceedings under this Chapter.

**"§ 168A-11. Civil action.**

(a) A ~~handicapped~~ person with a disability aggrieved by a discriminatory practice prohibited by G.S. 168A-5 through 168A-8, or a person aggrieved by conduct prohibited by G.S. 168A-10, may bring a civil action to enforce rights granted or protected by this Chapter against any person described in G.S. 168A-5 through 168A-8 or in G.S. 168A-10 who is alleged to have committed such practices or engaged in such conduct. The action shall be commenced in superior court in the county where the alleged discriminatory practice or prohibited conduct occurred or

1 where the plaintiff or defendant resides. Such action shall be tried to the court  
2 without a jury.

3 (b) Any relief granted by the court shall be limited to declaratory and injunctive  
4 relief, including orders to hire or reinstate an aggrieved person or admit such person  
5 to a labor organization. In a civil action brought to enforce provisions of this Chapter  
6 relating to employment, the court may award back pay. Any such back pay liability  
7 shall not accrue from a date more than two years prior to the filing of an action  
8 under this Chapter. Interim earnings or amounts earnable with reasonable diligence  
9 by the aggrieved person shall operate to reduce the back pay otherwise allowable.

10 (c) No court shall have jurisdiction over an action filed under this Chapter where  
11 the plaintiff has commenced federal judicial or administrative proceedings under  
12 Section 503 or Section 504 of the Vocational Rehabilitation Act of 1973, 29 U.S.C.  
13 §§ 793 and 794, as amended, or federal regulations promulgated ~~thereunder, under~~  
14 those sections; or under the Americans with Disabilities Act of 1990, 42 U.S.C. §  
15 12101, et seq., as amended, or federal regulations promulgated under that Act,  
16 involving or arising out of the facts and circumstances involved in the alleged  
17 discriminatory practice under this Chapter. If such proceedings are commenced after  
18 a civil action has been commenced under this Chapter, the State court's jurisdiction  
19 over the civil action shall end and the action shall be forthwith dismissed.

20 (d) In any civil action brought under this Chapter, the court, in its discretion, may  
21 award reasonable attorney's fees to the substantially prevailing party as part of costs.

22 "**§ 168A-12. Statute of limitations.**

23 A civil action regarding employment discrimination brought pursuant to this  
24 Chapter shall be commenced within 180 days after the date on which the aggrieved  
25 person became aware of or, with reasonable diligence, should have become aware of  
26 the alleged discriminatory practice or prohibited conduct. A civil action brought  
27 pursuant to this Chapter regarding any other complaint of discrimination shall be  
28 commenced within two years after the date on which the aggrieved person became  
29 aware of or, with reasonable diligence, should have become aware of the alleged  
30 discriminatory practice or prohibited conduct."

31 Section 2. This act becomes effective October 1, 1999.



# SENATE BILL 934: Handicapped Law Changes

## BILL ANALYSIS

Committee: Senate Children & Human  
Resources

Date: April 21, 1999

Version: 1

Introduced by: Senator Carter

Summary by: Jo B. McCants  
Committee Co-Counsel

**SUMMARY:** *This bill is a recommendation of the Governor's Advocacy Council for Persons with Disabilities. The bill makes several changes as a result of the Americans with Disabilities Act. The bill removes the word "handicapped" throughout the relevant statutes and substitutes the phrase "persons with a disability." There are three substantive changes made in this bill:*

- 1) Modifies the definition of "major life activities" to include working.*
- 2) Does not allow a state court to have jurisdiction over a case filed under Chapter 168A when a person has filed an action under the Americans with Disabilities Act.*
- 3) Increases the statute of limitations for civil actions filed under Chapter 168A, which do not involve employment discrimination to 2 years.*

## BILL ANALYSIS:

The first substantive change to the law would add the word "*work*" to the meaning of "major life activities" is in accord with the Americans with Disabilities Act. Current law defines "major life activities" as functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning.

The second substantive change to the law would not allow a state court to have subject matter jurisdiction over cases that involve a violation of Chapter 168A (Persons with Disabilities Protection Act), when a federal action has been filed under the American with Disabilities Act. Current law does not allow state courts to have jurisdiction over cases involving a violation of Chapter 168A when any federal judicial or administrative proceedings are filed under specific sections of the Vocational Rehabilitation Act of 1973 or other specific federal regulations.

The third substantive change to the law would allow a person to bring a civil action under the state's Persons with Disabilities Protection Act regarding a complaint of discrimination that does not allege employment discrimination within 2 years after the date the aggrieved person became aware of, or with reasonable diligence, should have become aware of the alleged discrimination. Civil actions that allege employment discrimination must be commenced within 180 days of the date on which the aggrieved person became aware of, or with reasonable diligence, should have become aware of the alleged discriminatory practice or prohibited conduct. Current law requires that **all** civil actions brought under the state's Persons with Disabilities Protection Act must be commenced within 180 days.

This act becomes effective on October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 947

Short Title: Local Health Board Rules.

(Public)

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Sponsors: Senators Lucas; Dannelly, Martin of Guilford, and Phillips.

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Referred to: Children & Human Resources.

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April 14, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE RULEMAKING AUTHORITY OF LOCAL  
3 BOARDS OF HEALTH.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 130A-39(a) reads as rewritten:

6 "(a) A local board of health shall have the responsibility to protect and promote  
7 the public health. The board shall have the authority to adopt rules necessary for that  
8 purpose. In adopting rules to protect and promote the public health, a local board of  
9 health may take into account factors other than public health that may enhance the  
10 reasonableness of the rule in light of the health risk addressed."

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



# SENATE BILL 947: Local Health Board Rules

## BILL ANALYSIS

**Committee:** Senate Children and Human  
Resources

**Date:** April 21, 1999

**Version:** 1

**Introduced by:** Sen. Lucas

**Summary by:** Linda Attarian  
Committee Counsel

**SUMMARY:** *This bill will allow a local board of health to consider factors other than public health when adopting rules necessary to protect and promote the public health. Such factors would be used by the board to enhance the reasonableness of the rule in light of the health risk addressed.*

### CURRENT LAW:

Local boards of health have the responsibility to protect and promote the public health and have been given the authority by law to adopt rules necessary for that purpose. The scope of this authority was placed into question by a 1996 North Carolina Court of Appeals case, *City of Roanoke Rapids v. Peedin*, 124 N.C. App. 578; 478 S.E. 2d 528(1996). In that case, the court held that if boards of health have authority to regulate smoking, then they may not base a rule on any factor besides health. Such factors as minimizing the hardship for local businesses and difficulty of enforcement, the court said, were appropriate factors for city councils or boards of county commissioners, not boards of health.

### BILL ANALYSIS:

**Section 1.** Amends G.S. 130A-39(a) to provide local boards of health the authority to take into account other factors besides public health if those factors enhance the reasonableness of the rule in the light of the health risk addressed.

**Section 2.** Effective when the bill becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 432

Short Title: Health Care Personnel Registry Changes.

(Public)

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Sponsors: Senators Carpenter and Phillips.

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Referred to: Children & Human Resources.

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March 22, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE FACILITIES THAT ARE INCLUDED IN THE  
3 HEALTH CARE PERSONNEL REGISTRY; TO PROVIDE THAT  
4 GRIEVANCES PERTAINING TO THE HEALTH CARE PERSONNEL  
5 REGISTRY FILED BY STATE EMPLOYEES SHALL BE IN ACCORDANCE  
6 WITH STATE PERSONNEL PROCEDURES; AND TO REQUIRE THAT  
7 EMPLOYERS AT HEALTH CARE FACILITIES ACCESS THE HEALTH  
8 CARE PERSONNEL REGISTRY.  
9 The General Assembly of North Carolina enacts:  
10 Section 1. G.S. 131E-256 reads as rewritten:  
11 "§ 131E-256. Health Care Personnel Registry.  
12 (a) The Department shall establish and maintain a health care personnel registry  
13 containing the names of all health care personnel working in health care facilities in  
14 North Carolina who have:  
15 (1) Been subject to findings by the Department of:  
16 a. Neglect or abuse of a resident in a health care facility or a  
17 person to whom home care services as defined by G.S.  
18 131E-136 or hospice services as defined by G.S. 131E-201  
19 are being provided.  
20 b. Misappropriation of the property of a resident in a health  
21 care facility, as defined in subsection (b) of this section  
22 including places where home care services as defined by  
23 G.S. 131E-136 or hospice services as defined by G.S. 131E-  
24 201 are being provided.

- c. Misappropriation of the property of a health care facility.
- d. Diversion of drugs belonging to a health care facility or to a patient or client.
- e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

- (2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The health care personnel registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(b) For the purpose of this section, the following are considered to be 'health care facilities':

- (1) Adult Care Homes as defined in G.S. 131D-2.
- (2) Hospitals as defined in G.S. 131E-76.
- (3) Home Care Agencies as defined in G.S. 131E-136.
- (4) Nursing Pools as defined by G.S. 131E-154.2.
- (5) Hospices as defined by G.S. 131E-201.
- (6) Nursing Facilities as defined by G.S. 131E-255.
- (7) State-Operated Facilities as ~~set forth in G.S. 122C-22.~~ defined in G.S. 122C-3(14)f.
- (8) ~~Residential Facilities and Hospitals for the Mentally Ill, Developmentally Disabled, or Substance Abusers licensed pursuant to G.S. 122C-23. as defined in G.S. 122C-3(14)e.~~
- (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.

(c) For the purpose of this section, the following are considered to be 'health care personnel':

- (1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) A nurse aide.
- (3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.
- (4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.

(d) Except as otherwise provided in this subsection, health ~~Health~~ care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30

1 days of the mailing of the written notice of the Department's intent to place its  
2 findings about the person in the health care personnel registry. Health care  
3 personnel who are career State employees as defined by G.S. 126-1.1 who wish to  
4 contest findings under subdivision (a)(1) of this section must do so by following the  
5 grievance procedures established by Article 8 of Chapter 126 of the General Statutes  
6 as administered by the State Personnel Commission.

7 (d1) Health care personnel who wish to contest the placement of information  
8 under subdivision (a)(2) of this section are entitled to an administrative hearing as  
9 provided by the Administrative Procedure Act, Chapter 150B of the General Statutes.  
10 A petition for a contested case hearing shall be filed within 30 days of the mailing of  
11 the written notice of the Department's intent to place information about the person  
12 in the health care personnel registry under subdivision (a)(2) of this section. Health  
13 care personnel who have filed a petition contesting the placement of information in  
14 the health care personnel registry under subdivision (a)(2) of this section are deemed  
15 to have challenged any findings made by the Department at the conclusion of its  
16 investigation.

17 (d2) Before hiring health care personnel into a health care facility or service,  
18 every employer at a health care facility shall access the Health Care Personnel  
19 Registry and shall note each incident of access in the appropriate business files.

20 (e) The Department shall provide an employer or potential employer of any  
21 person listed on the health care personnel registry of the nature of the finding or  
22 allegation and the status of the investigation.

23 (f) No person shall be liable for providing any information for the health care  
24 personnel registry if the information is provided in good faith. Neither an employer,  
25 potential employer, nor the Department shall be liable for using any information  
26 from the health care personnel registry if the information is used in good faith for the  
27 purpose of screening prospective applicants for employment or reviewing the  
28 employment status of an employee.

29 (g) Upon investigation and documentation, health care facilities shall ensure that  
30 the Department is notified of all allegations against health care personnel which  
31 appear to a reasonable person to be related to any act listed in subdivision (a)(1) of  
32 this section, and shall promptly report to the Department any resulting disciplinary  
33 action, demotion, or termination of employment of health care personnel.

34 (h) The North Carolina Medical Care Commission shall adopt, amend, and repeal  
35 all rules necessary for the implementation of this section."

36 Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 927

Short Title: Blind Services Technical Changes.

(Public)

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Sponsors: Senators Kinnaird; and Phillips.

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Referred to: Children & Human Resources.

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April 14, 1999

1

A BILL TO BE ENTITLED

2

AN ACT TO MAKE CHANGES NECESSITATED BY CHANGES IN FEDERAL

3

LAW TO THE GENERAL STATUTES CONCERNING SERVICES FOR THE

4

BLIND AND TO MAKE TECHNICAL CHANGES.

5

The General Assembly of North Carolina enacts:

6

Section 1. G.S. 111-4 reads as rewritten:

7

"§ 111-4. Register of State's ~~blind~~. blind and visually impaired.

8

~~(a) It shall be the duty of the~~ The Department of Health and Human Services to

9

shall cause to be maintained a complete register of the blind and visually impaired in

10

the State of North Carolina, ~~which that~~ shall describe the ~~condition, condition and~~

11

cause of ~~blindness, capacity for education and industrial training~~ blindness of each,

12

~~with such each and any other facts as that~~ may seem to the Department of Health and

13

Human Services to be of value.

14

(b) Whenever, upon examination by a physician, optometrist, or other person

15

examining eyes, any person is found to be blind or visually impaired, the examiner

16

shall report the results of the examination to the Department of Health and Human

17

Services within 30 days after the examination is conducted."

18

Section 2. G.S. 111-5 is repealed.

19

Section 3. G.S. 111-6 reads as rewritten:

20

"§ 111-6. Training schools and workshops; training outside State; sale of products;

21

direct relief; matching of federal funds.

22

The Department of Health and Human Services may establish one or more

23

training schools and workshops for employment of suitable blind and visually

24

impaired persons persons, and shall be empowered to equip and maintain the same,

1 ~~these schools and workshops, to pay to employees suitable wages, and to devise~~  
2 ~~means for the sale and distribution of the products thereof, of these schools and~~  
3 ~~workshops, and may cooperate with shops already established.~~ The Department of  
4 Health and Human Services may also pay for lodging, tuition, support and all  
5 necessary expenses for blind and visually impaired persons during their training or  
6 ~~instructions~~ instruction in any suitable occupation, whether it be in industrial,  
7 commercial, ~~or professional~~ professional, or any other establishments, schools or  
8 institutions, or through private instruction ~~wherever~~ when in the judgment of the  
9 Department ~~such~~ of Health and Human Services this instruction or training can be  
10 ~~obtained, when in its judgment obtained and the training or instruction in question~~  
11 will contribute to the efficiency or self-support of ~~such~~ the blind and visually  
12 impaired persons. When special educational opportunities cannot be had within the  
13 State, they may be arranged for, at the discretion of the ~~Department,~~ Department of  
14 Health and Human Services, outside of the State. The Department of Health and  
15 Human Services may also, ~~whenever it thinks proper,~~ also aid individual blind and  
16 visually impaired persons or groups of blind and visually impaired persons to become  
17 self-supporting by furnishing material or equipment to ~~them, and may also assist them~~  
18 and by assisting them in the sale and distribution of their products. Any portion of  
19 the funds appropriated to the Department of Health and Human Services under the  
20 provisions of this Chapter providing for the rehabilitation of the blind and visually  
21 impaired and the prevention of blindness may, when the Commission for the Blind  
22 deems wise, be given in direct money payments to the needy blind in accordance  
23 with the provisions of G.S. 111-13 ~~to 111-26, and whenever through G.S. 111-26.~~  
24 Whenever possible such funds may be matched by funds provided by the federal  
25 Social Security Act, Act, 42 U.S.C. § 301, et seq., as amended."

26 Section 4. G.S. 111-6.1 reads as rewritten:

27 "**§ 111-6.1. Rehabilitation center for the adult blind.**

28 ~~In addition to other powers and duties granted it by law, the The Department of~~  
29 ~~Health and Human Services is hereby authorized and directed to shall~~ establish and  
30 operate a rehabilitation center for the blind for the purpose of ~~assisting them in their~~  
31 ~~mental, emotional, physical, and economic adjustments to blindness through the~~  
32 ~~application of proper tests, measurements, and intensive training in order that they~~  
33 ~~may develop manual dexterity, obstacle and direction awareness, acceptable work~~  
34 ~~habits, and maximum skills in industrial and commercial processes.~~ evaluating and  
35 providing instruction in specialized independent living, prevocational, and vocational  
36 skills to blind and visually impaired persons to prepare them for obtaining and  
37 maintaining employment.

38 The Commission shall make all rules ~~and regulations~~ necessary for this purpose  
39 and the Department ~~is hereby authorized to~~ of Health and Human Services may enter  
40 into any agreement or contract; to purchase or lease property, both real and personal,  
41 to accept grants and gifts of whatever nature, and to do all other things necessary to  
42 carry out the intent and purposes of ~~such a~~ this rehabilitation center.

43 The Department of Health and Human Services ~~is hereby authorized to may~~  
44 receive grants-in-aid from the federal government for carrying out the provisions of

1 this section, as well as for other related rehabilitation programs for the North  
2 Carolina blind, under the provisions of the act of Congress known as the  
3 Barden Rehabilitation Act (Volume 57, United States Statutes at Large, Chapter 190).  
4 Visually handicapped blind and visually impaired persons under the provisions of the  
5 Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq.,  
6 as amended. Blind and visually impaired persons as defined in G.S. 111-11, who are  
7 physically present in North Carolina may enjoy the benefits of this section or any  
8 other related rehabilitation benefits under the Barden Rehabilitation Act.  
9 Rehabilitation Act of 1973, as amended."

10 Section 5. G.S. 111-7 reads as rewritten:

11 "**§ 111-7. ~~Promotion visits.~~ In-home services.**

12 The Department of Health and Human Services may ameliorate the condition of  
13 the blind by ~~promotion visits among them and teaching them in their homes as the~~  
14 ~~Department of Health and Human Services may deem advisable.~~ foster maximum  
15 independence of blind and visually impaired persons through the provision of in-  
16 home independent living, development of community-based support groups, and  
17 related services as it deems advisable."

18 Section 6. G.S. 111-8 reads as rewritten:

19 "**§ 111-8. Investigations; eye examination and treatment.**

20 ~~It shall be the duty of this [the]~~ The Department of Health and Human Services to  
21 shall continue to make inquiries concerning the cause of blindness, to learn what  
22 proportion of these cases are ~~preventable~~ preventable, and to inaugurate and  
23 cooperate in any ~~such~~ measure for the State of North Carolina as may seem wise. it  
24 deems advisable. The Department of Health and Human Services may arrange for  
25 the examination of the eyes of ~~the individual~~ blind and ~~partially blind~~ visually  
26 impaired persons and may secure and pay for medical and surgical treatment for ~~such~~  
27 these persons whenever in the judgment of a qualified ophthalmologist or optometrist  
28 the eyes of ~~such~~ this person may be benefited ~~thereby.~~ by the treatment."

29 Section 7. G.S. 111-8.1 is repealed.

30 Section 8. G.S. 111-11 reads as rewritten:

31 "**§ 111-11. ~~Definition of visually handicapped person.~~ Definitions.**

32 For ~~purpose~~ the purposes of this Chapter, ~~visually handicapped persons are those~~  
33 ~~persons who are totally blind or whose vision with glasses is so defective as to prevent~~  
34 ~~the performance of ordinary activity for which eyesight is essential.~~ Chapter, the  
35 following definitions apply:

36 (1) "Blind person" means a person who meets any of the following  
37 criteria:

38 a. Is totally blind.

39 b. Has central visual acuity that does not exceed 20/200 in the  
40 better eye with correcting lenses.

41 c. Has a visual field that subtends an angle no greater than 20  
42 degrees at its widest diameter.

43 (2) "Visually impaired person" means a person who meets any of the  
44 following criteria:

- 1           a.   Has a visual acuity of 20/100 or less with best correction  
2               with a progressive eye condition or a 30 degree field  
3               limitation.  
4           b.   Has best corrected central visual acuity of 20/70 or less in  
5               the better eye.  
6           c.   Has a chronic progressive eye pathology.  
7           d.   Has visual acuity better than 20/70 without progressive eye  
8               pathology that results in a functional handicap."

9           Section 9. G.S. 111-12.6 reads as rewritten:

10   **"§ 111-12.6. Disposition of funds deposited with or transferred to State Treasurer.**

11       All funds required under this Article to be deposited with or which have been  
12 ~~heretofore~~ transferred to the State Treasurer by the Bureau of Employment of the  
13 Department of Health and Human Services, and all future net earnings and  
14 accumulations of ~~said~~ the Bureau or its successor, other than the one hundred  
15 thousand dollars (\$100,000) reserve fund ~~herein provided for,~~ provided for in G.S.  
16 111-12.5, from whatever source or sources shall be periodically, but not less  
17 frequently than annually, paid over to and retained by the State Treasurer as a  
18 separate fund or account. The funds deposited with the State Treasurer shall be  
19 invested and the income from the corpus shall inure to the sole benefit of the  
20 Department of Health and Human Services. The income and corpus shall be  
21 expended for services to and for the benefit of ~~visually-handicapped~~ blind and  
22 visually impaired persons in North Carolina upon recommendation of the  
23 Commission for the Blind, by and with the approval of the Governor as the Director  
24 of the Budget."

25       Section 10. G.S. 111-14 reads as rewritten:

26   **"§ 111-14. Application for benefits under Article; investigation and award by county**  
27 **commissioners.**

28       Any person claiming ~~benefit~~ benefits under this ~~Article,~~ Article shall file with the  
29 commissioners of the county in which he or she is residing an application in writing,  
30 in duplicate, upon forms prescribed by the Department of Health and Human  
31 ~~Services, which~~ Services. This application shall be accompanied by a certificate  
32 signed by a reputable physician licensed to practice medicine in the State ~~of North~~  
33 ~~Carolina and~~ who is actively engaged in the treatment of diseases of the human ~~eye,~~  
34 ~~eye~~ or by an optometrist, whichever the individual may select, ~~to the effect stating~~  
35 ~~that the applicant is blind or that his or her vision with glasses is so defective as to~~  
36 ~~prevent the performance of ordinary activities for which eyesight is essential.~~ blind.  
37 ~~Such~~ This application may be made on the behalf of any ~~such~~ blind person by the  
38 Department of Health and Human ~~Services,~~ Services or by any other person. The  
39 board of county commissioners shall cause an investigation to be made by a qualified  
40 ~~person, or persons,~~ person designated as ~~their agents~~ its agent for this purpose and  
41 shall pass upon the ~~said~~ application without delay, determine the eligibility of the  
42 applicant, and allow or disallow the relief sought. In passing upon the application,  
43 ~~they~~ the board of county commissioners may take into consideration the facts set  
44 forth in the ~~said application,~~ application and any other facts that are deemed

1 necessary, and may at any ~~time, within their discretion,~~ time require an additional  
2 examination of the applicant's eyes by an ophthalmologist designated by the  
3 Department of Health and Human Services. When satisfied with the merits of the  
4 application, the board of county commissioners shall allow the ~~same application~~ and  
5 grant to the applicant ~~such any proper relief as may be suitable and proper,~~ according  
6 to the rules ~~and standards~~ established by the Commission for the ~~Blind,~~ not  
7 ~~inconsistent with this Article and in accordance with the further provisions hereof.~~  
8 Blind."

9           Section 11. G.S. 111-15(1) is repealed.

10           Section 12. G.S. 111-16 reads as rewritten:

11 **"§ 111-16. Application for aid; notice of award; review.**

12       Promptly after an application for aid is made to the board of county commissioners  
13 under this ~~Article~~ Article, the Department of Health and Human Services shall be  
14 notified ~~thereof~~ of the application by ~~mail,~~ mail by ~~said the~~ county ~~commissioners,~~  
15 ~~and one commissioners.~~ One of the duplicate applications for aid made before the  
16 board of county commissioners shall be transmitted with ~~said~~ this notice.

17       As soon as any award has been made or any application declined by the board of  
18 county commissioners, ~~or any application declined,~~ prompt notice ~~thereof in writing~~  
19 in writing of the award or the declined application shall be forwarded by mail to the  
20 Department of Health and Human Services and to the ~~applicant, in which shall be~~  
21 fully stated applicant. This notice shall fully state the particulars of the award or the  
22 facts of denial. An applicant may appeal an award or denial pursuant to Article 3 of  
23 Chapter 150B of the General Statutes.

24       ~~Within a reasonable time, in accordance with rules and regulations adopted by the~~  
25 ~~Commission for the Blind, after action by the board of county commissioners, the~~  
26 ~~applicant, if dissatisfied therewith, may appeal directly to the Commission for the~~  
27 ~~Blind. Notice of such appeal must be given in writing to the board of county~~  
28 ~~commissioners, and within 30 days after the receipt of such notice the board of~~  
29 ~~county commissioners shall transmit to the Department of Health and Human~~  
30 ~~Services copies of all proceedings and documents, including the award or denial,~~  
31 ~~which may be necessary for the hearing of the said appeal, together with the grounds~~  
32 ~~upon which the action was based.~~

33       ~~As soon as may be practicable after the receipt of the said notice of appeal, the~~  
34 ~~Commission for the Blind shall notify the applicant of the time and place where the~~  
35 ~~hearing of such appeal will be had. The members of the Commission for the Blind~~  
36 ~~shall hear the said appeal under such rules and regulations not inconsistent with this~~  
37 ~~Article as it may establish, and shall provide for granting an individual whose claim~~  
38 ~~for aid is denied an opportunity for fair hearing before said Commission for the~~  
39 ~~Blind, and their decision shall be final. Any notice required to be given herein may~~  
40 ~~be given by mail or by personally delivering in writing such notice to the clerk of the~~  
41 ~~board of county commissioners or the executive director of the Department of Health~~  
42 ~~and Human Services, except that notice of the time and place where the hearings of~~  
43 ~~such appeals will be had shall be given by mail or by personal delivery of such notice~~  
44 ~~in writing direct to the applicant.~~

~~In all cases where an appeal shall have been taken by the applicant, the Commission for the Blind shall carefully examine such award or decision, as the case may be, and shall in their discretion, approve, increase, allow or disallow any award so made. Immediately thereafter they shall notify the board of county commissioners and the applicant of such action; and if the award made by the board of county commissioners is changed, notice thereof shall be given by mail to the applicant and the board of county commissioners, giving the extent and manner in which any award has been changed.~~

~~If, in the absence of any appeal by the applicant, the North Carolina Department of Health and Human Services shall make any determination increasing or decreasing the award allowing or disallowing the same, not inconsistent with the rules and regulations promulgated by the Commission for the Blind, the applicant or board of county commissioners shall have the right, within 10 days from notice thereof, to have such order reviewed by the Commission for the Blind. The procedure in such cases shall be as provided in the section on appeals to the Commission by the applicant."~~

Section 13. G.S. 111-18.1(b) reads as rewritten:

"(b) In the event of the death of a recipient of a cash payment service, as defined by regulation of the N. C. Commission for the Blind, which service that was rendered as a part of a program of public assistance for the blind or visually ~~handicapped~~, impaired, any check or ~~checks~~ issued for the payment of ~~such~~ that service made payable to ~~such~~ that recipient, but not endorsed prior to ~~his~~ the recipient's death, shall be returned to the issuing agency and made void. The issuing agency shall then issue a check payable to the provider of ~~such~~ the service for the sum remaining due for this service, not to exceed the amount of ~~said~~ the returned and voided ~~check or checks. check.~~"

Section 14. G.S. 111-27 reads as rewritten:

**"§ 111-27. Department of Health and Human Services to promote employment of needy blind persons; vending stands on public property.**

For the purpose of assisting blind persons to become self-supporting, the Department of Health and Human Services ~~is hereby authorized to~~ may carry on activities to promote the employment of ~~needy~~ blind persons, including the licensing and establishment of ~~such~~ blind persons as operators of vending stands in public buildings. The ~~said~~ Department of Health and Human Services may cooperate with the federal government in the furtherance of the ~~provisions of the act of Congress known as the Randolph Sheppard Bill (H.R. 4688)~~ Randolph-Sheppard Vending Stand Act, 20 U.S.C. § 107-107f, as amended, providing for the licensing of blind persons to operate vending stands in federal buildings, or any other ~~aets~~ act of Congress ~~which that~~ may be ~~hereafter~~ enacted.

The board of county commissioners of each county and the commissioners or officials in charge of various State and municipal buildings ~~are hereby authorized and empowered to~~ may permit the operation of vending stands by ~~needy~~ blind persons on the premises of any State, county or municipal property under their respective ~~jurisdictions. Provided, that such~~ jurisdictions. These operators shall be first licensed

1 by the Department of Health and Human Services. ~~Provided further, that Services.~~  
2 Additionally, no vending stands may be operated unless, in the opinion of the  
3 commissions or officials having control and custody of ~~such the~~ the property, ~~such the~~  
4 vending stands may be properly and satisfactorily operated on ~~such the~~ the premises  
5 without undue interference with the use and needs ~~thereof of the premises or~~  
6 property for public purposes."

7 Section 15. G.S. 111-27.1 reads as rewritten:

8 "**§ 111-27.1. Department of Health and Human Services authorized to conduct certain**  
9 **business operations.**

10 For the purpose of assisting blind and visually impaired persons to become self-  
11 supporting the Department of Health and Human Services ~~is hereby authorized to~~  
12 may carry on activities to promote the rehabilitation and employment of the ~~blind,~~  
13 blind and visually impaired, including employment in or the operation of various  
14 business enterprises suitable for the blind ~~to be employed in or to operate, and~~  
15 visually impaired. The Executive Budget Act ~~shall apply~~ applies to the operation of  
16 ~~such these~~ enterprises as to all appropriations made by the State to aid in the  
17 organization and the establishment of ~~such these~~ businesses. Purchases and sales of  
18 merchandise or equipment, the payment of rents and wages to blind and visually  
19 impaired persons operating ~~such these~~ businesses, and other expenses ~~thereof, of~~  
20 these businesses from funds derived from local subscriptions and from the day-by-day  
21 operations ~~shall not be~~ are not subject to the provisions of law regulating purchases  
22 and contracts, or to the deposit and disbursement ~~thereof applicable that apply to~~  
23 State funds but shall be supervised by the Department of Health and Human  
24 Services. All of the business operations under this ~~law, however, shall be~~ law are  
25 subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of  
26 the General Statutes.

27 ~~After September 30, 1983, Randolph-Sheppard vendors will no longer be~~ are not  
28 State employees. Blind licensees operating vending facilities under contract with the  
29 ~~North Carolina~~ Department of Health and Human Services, Division of Services for  
30 the Blind, are independent contractors."

31 Section 16. G.S. 111-28 reads as rewritten:

32 "**§ 111-28. Department of Health and Human Services authorized to receive federal,**  
33 **etc., grants for benefit of needy blind; blind and visually impaired; use of information**  
34 **concerning blind persons.**

35 The Department of Health and Human Services ~~is hereby authorized and~~  
36 ~~empowered to~~ may receive grants-in-aid from the federal government or any State or  
37 federal agency for the purpose of rendering other services to the ~~needy blind~~ blind,  
38 visually impaired, and those in danger of becoming ~~blind, and all such~~ blind. All of  
39 ~~these grants so made and received~~ shall be paid into the State ~~treasury~~ Treasury and  
40 credited to the account of the Department of Health and Human Services, to be used  
41 in carrying out the provisions of this law.

42 The Commission for the Blind ~~is hereby further authorized and empowered to~~  
43 ~~make such~~ may adopt rules ~~and regulations~~ as may be required by the federal

1 government or State or federal agency as a condition for receiving ~~such~~ these federal  
2 funds, not inconsistent with the laws of this State.

3 ~~Whenever the words "Social Security Board" appear in G.S. 111-6, 111-13 to~~  
4 ~~111-26 the same shall be interpreted to include any agency of the federal government~~  
5 ~~which may be substituted therefor by law.~~

6 The Department of Health and Human Services is ~~hereby authorized and~~  
7 ~~empowered to~~ may enter into reciprocal agreements with public welfare agencies in  
8 other states ~~relative to the provision of~~ regarding assistance and services to residents,  
9 nonresidents, or transients, and cooperate with other agencies of the State and federal  
10 governments in the provisions of ~~such~~ assistance and services and in the study of the  
11 problems involved.

12 The Department of Health and Human Services is ~~hereby authorized and~~  
13 ~~empowered to~~ may establish and enforce reasonable rules ~~and regulations~~ governing  
14 the custody, use and preservation of the records, papers, files, and communications of  
15 the Department.

16 It ~~shall be~~ is unlawful, except for purposes directly connected with the  
17 administration of aid to the ~~needy~~ blind and visually impaired and in accordance  
18 with the rules ~~and regulations~~ of the Department of Health and Human Services, for  
19 any person ~~or persons~~ to solicit, disclose, receive, make use of, or to authorize,  
20 knowingly permit, participate in, or acquiesce in the use of, any list of or name of, or  
21 any information concerning, persons applying for or receiving aid to the ~~needy blind,~~  
22 blind and visually impaired, directly or indirectly derived from the records, papers,  
23 files, or communications of the Department of Health and Human ~~Services or~~  
24 Services, the board of county ~~commissioners~~ commissioners, or the county social  
25 services department, or acquired in the course of the performance of official duties.

26 ~~Notwithstanding the above, the~~ The Department of Health and Human Services is  
27 ~~authorized to~~ may release to the ~~North Carolina Department~~ Division of Motor  
28 Vehicles in the Department of Transportation and to the North Carolina Department  
29 of Revenue the name and medical records of any person listed in the register of the  
30 blind and visually impaired in this State maintained under the provisions of G.S. 111-  
31 4. All information and documents released to the ~~Department~~ Division of Motor  
32 Vehicles and the Department of Revenue shall be treated by ~~those departments~~ them  
33 as confidential for their use only and shall not be released by them to any person for  
34 commercial or political purposes or for any purpose not directly connected with the  
35 administration of Chapters 20 and 105 of the General ~~Statutes of this State.~~ Statutes.  
36 The Department of Health and Human Services may also release to the North  
37 Carolina Library for the Blind and Physically Handicapped of the Department of  
38 Cultural Resources, the name and address of any person listed in the register of the  
39 blind and visually impaired in this State maintained under the provisions of G.S. 111-  
40 4. All information released to the North Carolina Library for the Blind and Physically  
41 Handicapped shall be treated as confidential for its use only and shall not be released  
42 to any person for commercial or political purposes or for any purpose not directly  
43 connected with providing information concerning services offered by the North  
44 Carolina Library for the Blind and Physically Handicapped."

1 Section 17. G.S. 111-28.1 reads as rewritten:

2 "**§ 111-28.1. Department of Health and Human Services authorized to cooperate with**  
3 **federal government in rehabilitation of ~~blind~~. blind and visually impaired.**

4 The Department of Health and Human Services ~~is hereby authorized and~~  
5 ~~empowered to make~~ may adopt the necessary rules and regulations to cooperate with  
6 the federal government in the furtherance of the provisions of the act of Congress  
7 ~~known as the Barden Rehabilitation Act (Volume 57, United States Statutes at Large,~~  
8 ~~Chapter 190) Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355; 29 U.S.C.~~  
9 ~~§ 701, et seq., as amended,~~ providing for the rehabilitation of the ~~blind~~. blind and  
10 visually impaired."

11 Section 18. G.S. 111-41 reads as rewritten:

12 "**§ 111-41. Preference to ~~visually handicapped~~ blind persons in operation of vending**  
13 **facilities; responsibility of Department of Health and Human Services.**

14 In order to promote the employment and the self-sufficiency of ~~visually~~  
15 ~~handicapped~~ blind persons in North Carolina, State agencies shall upon the request  
16 of the Department of Health and Human Services give preference to ~~visually~~  
17 ~~handicapped~~ blind persons in the operation of vending facilities on State property.  
18 The Department of Health and Human Services shall encourage and assist the  
19 operation of vending facilities by ~~visually handicapped~~ blind persons."

20 Section 19. G.S. 111-42(e) is repealed.

21 Section 20. G.S. 111-43 reads as rewritten:

22 "**§ 111-43. Installation of coin-operated vending machines.**

23 In locations where the Department of Health and Human Services determines that  
24 a vending facility may not be operated or should not continue to operate due to  
25 insufficient revenues to support a blind vendor or due to the lack of qualified blind  
26 applicants, the Department shall have the first opportunity to secure, by negotiation  
27 of a contract with one or more licensed commercial vendors, coin-operated vending  
28 machines for the location. Profits from coin-operated vending machines secured by  
29 the Department of Health and Human Services shall be used by the Department for  
30 the support of programs that enable blind and visually impaired people to live more  
31 independently, including medical, rehabilitation, independent living, and educational  
32 services offered by the Division of Services for the Blind."

33 Section 21. G.S. 111-44 reads as rewritten:

34 "**§ 111-44. Location and services provided by State agency.**

35 If the Department of Health and Human Services ~~shall determine~~ determines that  
36 a location is suitable for the operation of a vending facility by a ~~visually handicapped~~  
37 blind person, the State agency with authority over the location shall provide proper  
38 space, plumbing, lighting, and electrical outlets for the vending facility in the original  
39 planning and construction, or in the alteration and renovation of the present location.  
40 The State agency shall provide necessary utilities, janitorial ~~services~~ service, and  
41 garbage disposal for the operation of the vending facility. Space and services for the  
42 vending facilities ~~and service therefor~~ shall be provided without charge."

43 Section 22. G.S. 111-45 reads as rewritten:

1 "**§ 111-45. Duty of State agency to inform ~~Department: the Department of Health and~~**  
2 **Human Services.**

3 It shall be the duty of the State agencies to inform the Department of Health and  
4 Human Services of existing and prospective locations for vending facilities and coin-  
5 operated vending machines and to ~~prescribe regulations (upon adopt rules, upon~~  
6 ~~request of the Department)~~ Department, to promote the successful operation of the  
7 vending facilities of the ~~visually handicapped: blind.~~"

8 Section 23. G.S. 111-46 reads as rewritten:

9 "**§ 111-46. Vending facilities operated by those other than ~~visually handicapped blind~~**  
10 **persons.**

11 Where vending facilities on State property are operated by those other than ~~the~~  
12 ~~visually handicapped blind~~ persons on the date of enactment of this Article, the  
13 contract of these vending facilities shall not be renewed or extended unless the  
14 Secretary of the Department of Health and Human Services is notified ~~thereof~~ of the  
15 proposed renewal or extension and ~~he~~ the Secretary determines within 30 days of  
16 ~~such this~~ notification that the vending facilities are not, or cannot become, suited for  
17 operation by the ~~visually handicapped: blind.~~ However, if If the Secretary of the  
18 Department of Health and Human Services within 30 days of the date of ~~such this~~  
19 notification fails to provide for the operation of the vending facilities by the ~~visually~~  
20 ~~handicapped, blind,~~ the existing contract may be renewed or extended."

21 Section 24. G.S. 111-50(b)(3) is repealed.

22 Section 25. G.S. 111-50 is amended by adding a new subsection to read:

23 "**(c) The Commission for the Blind may adopt rules to change applicable set-aside**  
24 **rates for the Business Enterprises Program consistent with the needs of the Business**  
25 **Enterprises Program.**"

26 Section 26. G.S. 143B-157(3b) reads as rewritten:

27 "(3b) The Commission shall advise the Department regarding  
28 preparation of applications, the State Plan, ~~the strategic plan,~~  
29 ~~amendments to these plans,~~ this plan, the State needs assessments,  
30 and the evaluations required by the federal rehabilitation program;  
31 and in partnership with the Department develop, agree to, and  
32 review State goals and priorities."

33 Section 27. G.S. 143B-157(3e) reads as rewritten:

34 "(3e) The Commission shall coordinate with other councils within the  
35 State, including the statewide Independent Living Council  
36 established under section 705 of the federal Rehabilitation Act, ~~294~~  
37 29 U.S.C. § 720, et seq., the advisory panel established under  
38 ~~section 613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities  
39 Education Act, 20 U.S.C. § 1413(A)(12), the ~~State Planning~~  
40 Council on Developmental Disabilities described in section 124 of  
41 the Developmental Disabilities Assistance and Bill of Rights Act,  
42 U.S.C. § 6024, ~~and~~ the State Mental Health Planning Council  
43 established pursuant to section 1916(e) of the Public Health

1 Service Act, 42 U.S.C. § ~~300x-4(e); 300x-4(e)~~, and the Commission  
2 on Workforce Preparedness."

3 Section 28. G.S. 143B-158 reads as rewritten:

4 "**§ 143B-158. Commission for the Blind -- members; selection; quorum; compensation.**

5 The Commission for the Blind of the Department of Health and Human Services  
6 shall consist of ~~11~~ 13 members appointed by the Governor. ~~No~~ A physician, ~~no~~  
7 optometrist, ~~no~~ optician, ~~no~~ ~~oculist~~, or oculist ~~nor any other person who receives~~  
8 ~~services or funds regulated by the Commission shall be qualified to~~ shall not serve on  
9 the Commission for the Blind. Any person who is presently a member of the  
10 Commission and is disqualified ~~by reason of the preceding sentence~~ under this  
11 section shall ~~be deemed to have resigned~~ resign his or her position on the  
12 ~~Commission. The Commission and the Governor shall appoint a successor for the~~  
13 balance of the unexpired term. At all times at least ~~six~~ seven members of the  
14 Commission shall be persons who are visually ~~handicapped~~ impaired to the minimum  
15 extent of being legally blind. The members of the Commission shall be appointed for  
16 terms of ~~six~~ three years and shall serve until their successors are appointed and  
17 qualify. No individual may be appointed to more than two consecutive three-year  
18 terms. Any appointment to fill a vacancy on the Commission created by the  
19 resignation, dismissal, death, or disability of a member shall be for the balance of the  
20 unexpired term.

21 The Governor ~~shall have the power to~~ may remove any member of the  
22 Commission from office for misfeasance, malfeasance, or nonfeasance in accordance  
23 with ~~the provisions of G.S. 143B-13 of the Executive Organization Act of 1973. 143B-~~  
24 13.

25 The members of the Commission shall receive per diem and necessary travel and  
26 subsistence expenses in accordance with ~~the provisions of G.S. 138-5.~~

27 A majority of the Commission ~~shall constitute~~ constitutes a quorum for the  
28 transaction of business.

29 All clerical and other services required by the Commission shall be supplied by the  
30 Secretary of Health and Human Services."

31 Section 29. This act is effective when it becomes law.

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 4/21/99

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Beckie Stuart	DPAB
Loa Helt	RESEARCH
Maureen Arney	NCNA - NC American College of Nurse-Midwives
Laurie Rader	NCAAC
JESSE Goodman	DFS/DHHS
Pam Heardorf	YAIO/DOA
Sandy Cairnany	NC PTA
Jeanne Schen	NC Nurses Association
Kim Hays	GACPD
Paula Hef	Covenant w/ NC's Children
Jane Smith	NC DSS
Phoebe Beale	NC DSS
AB Elkins	GACPD
Mac Brownlee	GACPD

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 4/21/99

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Adam Searing	NCHAC
Pam Slamans	NC Social Services Consortium
Dolby Bryan	RRC
Ann Christian	Atty
Tom Dole	WCSAPCB
Alynn Braswell	MGNS
Julia White	Protemis office
Sarah Schmidt	NC Justice Center
DA GIBACH	NCBTC
Summers	NC Equities
Jennifer Hobbs	Student



Date 4/21/90

**FIRM OR AGENCY AND ADDRESS**

# **Agenda**

**SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**April 26, 1999**

**5:30 PM**

**Call to Order**

<b>SB432</b>	<b>Health Care Personnel Senator Carpenter</b>
<b>SB947</b>	<b>Local Health Board Rules Senator Lucas</b>
<b>SB1015</b>	<b>Toby's Bill Senator Metcalf</b>
<b>SB1062</b>	<b>Substance Abuse Certification Senator Metcalf</b>
<b>SB1134</b>	<b>Welfare Reform Changes Senator William Martin</b>

**Sergeants at Arms:** **Mary Perry**  
**Ronald Spann**  
**Michael Houser**

**Next Meeting**  
**To Be Announced**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, April 26, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, April 26, 1999 in room 544 of the State Legislative Office Building.

Fourteen (14) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and sergeants-at-arms.

Senator Carpenter was introduced to explain SB432 entitled Health Care Personnel Registry Changes. Senator Carpenter sent forth a committee substitute and moved its adoption. The motion carried unanimously. After discussion the bill Senator Dannelly moved that the bill be reported out as unfavorable as to bill, but favorable as to committee substitute bill, the motion carried unanimously.

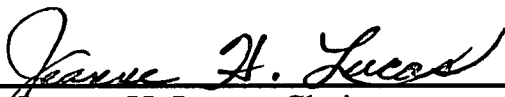
Senator Metcalf the bill sponsor was introduced to explain SB1015 entitled Toby's Bill. Senator Metcalf sent forth a committee substitute and moved its adoption. Senator Foxx sent forth an amendment, which carried unanimously. After some discussion of the bill, Senator Dannelly moved that the bill be reported out as unfavorable as to bill, but favorable as to committee substitute bill. The bill is to be referred to appropriations.


Senator Metcalf then presented another bill SB1062 entitled substance Abuse Certification. Senator Metcalf the bill sponsor then explained the bill. After some discussion of the bill Senator Warren moved for a favorable report, the motion carried.

Senator William Martin of Pitt the bill sponsor was introduced to explain SB1134 entitled Welfare Reform Changes. Senator Martin explained the bill with changes made from last session. After a great deal of discussion Senator Dannelly moved for a favorable report. The motion carried unanimously.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Tuesday, April 27, 1999

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

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B. 1015

Toby's Bill.

Draft Number:	PCS1726
Sequential Referral:	None
Recommended Referral:	Appropriations, and then Children & Human Resources
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Monday, April 26, 1999

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

**FAVORABLE**

S.B. 1062                      Substance Abuse Certification  
   Sequential Referral:      None  
   Recommended Referral:   None

S.B. 1134                      Welfare Reform Changes.  
   Sequential Referral:      None  
   Recommended Referral:   None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B. 432                      Health Care Peronnel Registry Changes.  
   Draft Number:            PCS2653  
   Sequential Referral:      None  
   Recommended Referral:   None  
   Long Title Amended:    No

**TOTAL REPORTED: 3**

Committee Clerk Comment:      None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1015

Short Title: Toby's Bill.

(Public)

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Sponsors: Senators Metcalf and Carter.

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Referred to: Children & Human Resources.

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April 15, 1999

1 A BILL TO BE ENTITLED

2 AN ACT TO BE KNOWN AS TOBY'S LAW; TO IMPROVE THE ABILITY OF  
3 THE DIVISION OF SOCIAL SERVICES, DEPARTMENT OF HEALTH AND  
4 HUMAN SERVICES, TO PROTECT CHILDREN AND YOUTH FROM  
5 VIOLENCE PRONE CAREGIVERS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7B-101, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 18 of S.L. 1998-229, is amended by adding a new subdivision to  
9 read:

10 "(7a) 'Criminal history' means a county, State, or federal criminal  
11 history of conviction or pending indictment of a crime, whether a  
12 misdemeanor or a felony, involving violence against a person."

13 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
14 amended by Section 19 of S.L. 1998-229, is amended by adding a new subsection to  
15 read:

16 "(d1) Whenever a juvenile is removed from the home due to physical abuse, the  
17 director shall conduct a thorough review of the background of the alleged abuser.  
18 This review shall include a criminal history check and a review of any available  
19 mental health records. If the review reveals that the alleged abuser has a history of  
20 violent behavior against people, the director shall petition the court to order the  
21 alleged abuser to submit to a complete mental health evaluation by a licensed  
22 psychologist or psychiatrist."

23 Section 3. G.S. 7B-304, as enacted by Section 6 of S.L. 1998-202, reads  
24 as rewritten:

1 **"§ 7B-304. Evaluation for court.**

2 In all cases in which a petition is filed, the director of the department of social  
3 services shall prepare a report for the court containing the results of any mental  
4 health evaluation under G.S. 7B-503, a home placement ~~plan~~ plan, and a treatment  
5 plan deemed by the director to be appropriate to the needs of the juvenile. The  
6 report shall be available to the court immediately following the adjudicatory  
7 hearing."

8 Section 4. G.S. 7B-503, as enacted by Section 6 of S.L. 1998-202, reads  
9 as rewritten:

10 **"§ 7B-503. Criteria for nonsecure custody.**

11 (a) When a request is made for nonsecure custody, the court shall first consider  
12 release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other  
13 responsible adult. An order for nonsecure custody shall be made only when there is  
14 a reasonable factual basis to believe the matters alleged in the petition are true, and

- 15 (1) The juvenile has been abandoned; or
- 16 (2) The juvenile has suffered physical injury or sexual abuse; or
- 17 (3) The juvenile is exposed to a substantial risk of physical injury or  
18 sexual abuse because the parent, guardian, custodian, or caretaker  
19 has created the conditions likely to cause injury or abuse or has  
20 failed to provide, or is unable to provide, adequate supervision or  
21 protection; or
- 22 (4) The juvenile is in need of medical treatment to cure, alleviate, or  
23 prevent suffering serious physical harm which may result in death,  
24 disfigurement, or substantial impairment of bodily functions, and  
25 the juvenile's parent, guardian, custodian, or caretaker is unwilling  
26 or unable to provide or consent to the medical treatment; or
- 27 (5) The parent, guardian, custodian, or caretaker consents to the  
28 nonsecure custody order; or
- 29 (6) The juvenile is a runaway and consents to nonsecure custody.

30 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure  
31 custody only when there is a reasonable factual basis to believe that there are no  
32 other reasonable means available to protect the juvenile. In no case shall a juvenile  
33 alleged to be abused, neglected, or dependent be placed in secure custody.

34 (b) Whenever the court orders a juvenile to be placed in nonsecure custody, the  
35 court shall also rule on any petition under G.S. 7B-302(d1). If the court finds that  
36 the alleged abuser has a history of violent behavior against people, the court shall  
37 order the alleged abuser to submit to a complete mental health evaluation by a  
38 licensed psychologist or psychiatrist. The county department of social services shall  
39 pay for any mental health evaluation required under this section."

40 Section 5. G.S. 7B-506, as enacted by Section 6 of S.L. 1998-202 and as  
41 amended by Section 21 of S.L. 1998-229, is amended by adding a new subsection to  
42 read:

43 "(c1) In determining whether continued custody is warranted, the court shall give  
44 considerable weight to the opinion of the mental health professional who performed

1 an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of  
2 that individual."

3 Section 6. G.S. 7B-903, as enacted by Section 6 of S.L. 1998-202 and as  
4 amended by Section 23 of S.L. 1998-229, reads as rewritten:

5 "**§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

6 (a) The following alternatives for disposition shall be available to any court  
7 exercising jurisdiction, and the court may combine any of the applicable alternatives  
8 when the court finds the disposition to be in the best interests of the juvenile:

9 (1) The court may dismiss the case or continue the case in order to  
10 allow the parent, guardian, custodian, caretaker or others to take  
11 appropriate action.

12 (2) In the case of any juvenile who needs more adequate care or  
13 supervision or who needs placement, the court may:

14 a. Require that the juvenile be supervised in the juvenile's own  
15 home by the department of social services in the juvenile's  
16 county, or by other personnel as may be available to the  
17 court, subject to conditions applicable to the parent,  
18 guardian, custodian, or caretaker as the court may specify;  
19 or

20 b. Place the juvenile in the custody of a parent, relative,  
21 private agency offering placement services, or some other  
22 suitable person; or

23 c. Place the juvenile in the custody of the department of social  
24 services in the county of the juvenile's residence, or in the  
25 case of a juvenile who has legal residence outside the State,  
26 in the physical custody of the department of social services  
27 in the county where the juvenile is found so that agency  
28 may return the juvenile to the responsible authorities in the  
29 juvenile's home state. The director may, unless otherwise  
30 ordered by the court, arrange for, provide, or consent to,  
31 needed routine or emergency medical or surgical care or  
32 treatment. In the case where the parent is unknown,  
33 unavailable, or unable to act on behalf of the juvenile, the  
34 director may, unless otherwise ordered by the court, arrange  
35 for, provide, or consent to any psychiatric, psychological,  
36 educational, or other remedial evaluations or treatment for  
37 the juvenile placed by a court or the court's designee in the  
38 custody or physical custody of a county department of social  
39 services under the authority of this or any other Chapter of  
40 the General Statutes. Prior to exercising this authority, the  
41 director shall make reasonable efforts to obtain consent from  
42 a parent or guardian of the affected juvenile. If the director  
43 cannot obtain such consent, the director shall promptly  
44 notify the parent or guardian that care or treatment has

1           been provided and shall give the parent frequent status  
2           reports on the circumstances of the juvenile. Upon request  
3           of a parent or guardian of the affected juvenile, the results  
4           or records of the aforementioned evaluations, findings, or  
5           treatment shall be made available to such parent or guardian  
6           by the director unless prohibited by G.S. 122C-53(d). If a  
7           juvenile is removed from the home and placed in custody or  
8           placement responsibility of a county department of social  
9           services, the director shall not allow unsupervised visitation  
10          with, or return physical custody of the juvenile to, the  
11          parent, guardian, custodian, or caretaker without a hearing  
12          at which the court finds that the juvenile will receive proper  
13          care and supervision in a safe home.

14                 In placing a juvenile in out-of-home care under this  
15          section, the court shall first consider whether a relative of  
16          the juvenile is willing and able to provide proper care and  
17          supervision of the juvenile in a safe home. If the court finds  
18          that the relative is willing and able to provide proper care  
19          and supervision in a safe home, then the court shall order  
20          placement of the juvenile with the relative unless the court  
21          finds that the placement is contrary to the best interests of  
22          the juvenile. Placement of a juvenile with a relative outside  
23          of this State must be in accordance with the Interstate  
24          Compact on the Placement of Children.

25           (3)   In any case, the court may order that the juvenile be examined by  
26                 a physician, psychiatrist, psychologist, or other qualified expert as  
27                 may be needed for the court to determine the needs of the  
28                 juvenile:

29                 a.   Upon completion of the examination, the court shall  
30                       conduct a hearing to determine whether the juvenile is in  
31                       need of medical, surgical, psychiatric, psychological, or other  
32                       treatment and who should pay the cost of the treatment. The  
33                       county manager, or such person who shall be designated by  
34                       the chairman of the county commissioners, of the juvenile's  
35                       residence shall be notified of the hearing, and allowed to be  
36                       heard. If the court finds the juvenile to be in need of  
37                       medical, surgical, psychiatric, psychological, or other  
38                       treatment, the court shall permit the parent or other  
39                       responsible persons to arrange for treatment. If the parent  
40                       declines or is unable to make necessary arrangements, the  
41                       court may order the needed treatment, surgery, or care, and  
42                       the court may order the parent to pay the cost of the care  
43                       pursuant to G.S. 7B-904. If the court finds the parent is  
44                       unable to pay the cost of treatment, the court shall order the

1 county to arrange for treatment of the juvenile and to pay  
2 for the cost of the treatment. The county department of  
3 social services shall recommend the facility that will provide  
4 the juvenile with treatment.

- 5 b. If the court believes, or if there is evidence presented to the  
6 effect that the juvenile is mentally ill or is developmentally  
7 disabled, the court shall refer the juvenile to the area mental  
8 health, developmental disabilities, and substance abuse  
9 services director for appropriate action. A juvenile shall not  
10 be committed directly to a State hospital or mental  
11 retardation center; and orders purporting to commit a  
12 juvenile directly to a State hospital or mental retardation  
13 center except for an examination to determine capacity to  
14 proceed shall be void and of no effect. The area mental  
15 health, developmental disabilities, and substance abuse  
16 director shall be responsible for arranging an  
17 interdisciplinary evaluation of the juvenile and mobilizing  
18 resources to meet the juvenile's needs. If institutionalization  
19 is determined to be the best service for the juvenile,  
20 admission shall be with the voluntary consent of the parent  
21 or guardian. If the parent, guardian, custodian, or caretaker  
22 refuses to consent to a mental hospital or retardation center  
23 admission after such institutionalization is recommended by  
24 the area mental health, developmental disabilities, and  
25 substance abuse director, the signature and consent of the  
26 court may be substituted for that purpose. In all cases in  
27 which a regional mental hospital refuses admission to a  
28 juvenile referred for admission by a court and an area  
29 mental health, developmental disabilities, and substance  
30 abuse director or discharges a juvenile previously admitted  
31 on court referral prior to completion of treatment, the  
32 hospital shall submit to the court a written report setting out  
33 the reasons for denial of admission or discharge and setting  
34 out the juvenile's diagnosis, indications of mental illness,  
35 indications of need for treatment, and a statement as to the  
36 location of any facility known to have a treatment program  
37 for the juvenile in question.

38 (b) When the court has found that a juvenile has suffered physical abuse and that  
39 the individual responsible for the abuse has a history of violent behavior against  
40 people, the court shall give considerable weight to the opinion of the mental health  
41 professional who performed an evaluation under G.S. 7B-503(b) before returning the  
42 juvenile to the custody of that individual."

43 Section 7. G.S. 7B-904, as enacted by Section 6 of S.L. 1998-202, reads  
44 as rewritten:

1 "§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or  
2 dependent.

3 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
4 treatment pursuant to G.S. 7B-903, the court may order the parent or other  
5 responsible parties to pay the cost of the treatment or care ordered.

6 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
7 who has been adjudicated abused, neglected, or dependent, if the court finds that it is  
8 in the best interests of the juvenile for the ~~parent~~ parent, guardian, custodian, or  
9 caretaker to be directly involved in the juvenile's treatment, the court may order the  
10 ~~parent~~ parent, guardian, custodian, or caretaker to participate in medical, psychiatric,  
11 psychological, or other treatment of the juvenile. The cost of the treatment shall be  
12 paid pursuant to G.S. 7B-903.

13 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
14 who has been adjudicated abused, neglected, or dependent, the court may determine  
15 whether the best interests of the juvenile require that the ~~parent~~ parent, guardian,  
16 custodian, or caretaker undergo psychiatric, psychological, or other treatment or  
17 counseling directed toward remediating or remedying behaviors or conditions that led  
18 to or contributed to the juvenile's adjudication or to the court's decision to remove  
19 custody of the juvenile from the ~~parent~~ parent, guardian, custodian, or caretaker. If  
20 the court finds that the best interests of the juvenile require the ~~parent~~ parent,  
21 guardian, custodian, or caretaker undergo treatment, it may order ~~the parent that~~  
22 individual to comply with a plan of treatment approved by the court or condition  
23 legal custody or physical placement of the juvenile with the ~~parent~~ parent, guardian,  
24 custodian, or caretaker upon ~~the parent's~~ that individual's compliance with the plan  
25 of treatment. The court may order the ~~parent~~ parent, guardian, custodian, or  
26 caretaker to pay the cost of treatment ordered pursuant to this subsection. In cases in  
27 which the court has conditioned legal custody or physical placement of the juvenile  
28 with the ~~parent~~ parent, guardian, custodian, or caretaker upon ~~the parent's~~  
29 compliance with a plan of treatment, the court may charge the cost of the treatment  
30 to the county of the juvenile's residence if the court finds the ~~parent~~ parent, guardian,  
31 custodian, or caretaker is unable to pay the cost of the treatment. In all other cases,  
32 if the court finds the ~~parent~~ parent, guardian, custodian, or caretaker is unable to pay  
33 the cost of the treatment ordered pursuant to this subsection, the court may order ~~the~~  
34 ~~parent~~ that individual to receive treatment currently available from the area mental  
35 health program that serves the parent's catchment area.

36 (d) Whenever legal custody of a juvenile is vested in someone other than the  
37 juvenile's parent, after due notice to the parent and after a hearing, the court may  
38 order that the parent pay a reasonable sum that will cover, in whole or in part, the  
39 support of the juvenile after the order is entered. If the court requires the payment of  
40 child support, the amount of the payments shall be determined as provided in G.S.  
41 50-13.4(c). If the court places a juvenile in the custody of a county department of  
42 social services and if the court finds that the parent is unable to pay the cost of the  
43 support required by the juvenile, the cost shall be paid by the county department of  
44 social services in whose custody the juvenile is placed, provided the juvenile is not

1 receiving care in an institution owned or operated by the State or federal government  
2 or any subdivision thereof.

3 (e) Failure of a parent who is personally served to participate in or comply with  
4 this section may result in a proceeding for civil contempt."

5 Section 8. G.S. 7B-1003, as enacted by Section 6 of S.L. 1998-202, reads  
6 as rewritten:

7 "**§ 7B-1003. Disposition pending appeal.**

8 Pending disposition of an appeal, the return of the juvenile to the custody of the  
9 parent or guardian of the juvenile, with or without conditions, should issue in every  
10 case unless the court orders otherwise. When the court has found that a juvenile has  
11 suffered physical abuse and that the individual responsible for the abuse has a history  
12 of violent behavior, the court shall give considerable weight to the opinion of the  
13 mental health professional who performed the evaluation under G.S. 7B-503(b)  
14 before returning the juvenile to the custody of that individual. For compelling  
15 reasons which must be stated in writing, the court may enter a temporary order  
16 affecting the custody or placement of the juvenile as the court finds to be in the best  
17 interests of the juvenile or the State. The provisions of subsections (b), (c), and (d)  
18 of G.S. 7B-905 shall apply to any order entered under this section which provides for  
19 the placement or continued placement of a juvenile in foster care."

20 Section 9. This act becomes effective July 1, 1999, and applies to  
21 petitions filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

SENATE  
COMMITTEE SUBSTITUTE

S

APR 27 1999

D

SENATE BILL 1015

Proposed Committee Substitute S1015-PC9-2638

**ADOPTED**

Short Title: Protection From Violent Caregivers.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE ABILITY OF THE DIVISION OF SOCIAL  
3 SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO  
4 PROTECT CHILDREN AND YOUTH FROM VIOLENCE PRONE  
5 CAREGIVERS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7B-101, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 18 of S.L. 1998-229, is amended by adding a new subdivision to  
9 read:

10 "(7a) 'Criminal history' means a county, State, or federal criminal  
11 history of conviction or pending indictment of a crime, whether a  
12 misdemeanor or a felony, involving violence against a person."

13 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
14 amended by Section 19 of S.L. 1998-229, is amended by adding a new subsection to  
15 read:

16 "(d1) Whenever a juvenile is removed from the home due to physical abuse, the  
17 director shall conduct a thorough review of the background of the alleged abuser.  
18 This review shall include a criminal history check and a review of any available  
19 mental health records. If the review reveals that the alleged abuser has a history of  
20 violent behavior, the director shall petition the court to order the alleged abuser to  
21 submit to a complete mental health evaluation by a licensed psychologist or  
22 psychiatrist."

Section 3. G.S. 7B-304, as enacted by Section 6 of S.L. 1998-202, reads as rewritten:

**"§ 7B-304. Evaluation for court.**

In all cases in which a petition is filed, the director of the department of social services shall prepare a report for the court containing the results of any mental health evaluation under G.S. 7B-503, a home placement ~~plan~~ plan, and a treatment plan deemed by the director to be appropriate to the needs of the juvenile. The report shall be available to the court immediately following the adjudicatory hearing."

Section 4. G.S. 7B-503, as enacted by Section 6 of S.L. 1998-202, reads as rewritten:

**"§ 7B-503. Criteria for nonsecure custody.**

(a) When a request is made for nonsecure custody, the court shall first consider release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible adult. An order for nonsecure custody shall be made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and

- (1) The juvenile has been abandoned; or
- (2) The juvenile has suffered physical injury or sexual abuse; or
- (3) The juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection; or
- (4) The juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment; or
- (5) The parent, guardian, custodian, or caretaker consents to the nonsecure custody order; or
- (6) The juvenile is a runaway and consents to nonsecure custody.

A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure custody only when there is a reasonable factual basis to believe that there are no other reasonable means available to protect the juvenile. In no case shall a juvenile alleged to be abused, neglected, or dependent be placed in secure custody.

(b) Whenever the court orders a juvenile to be placed in nonsecure custody, the court shall also rule on any petition under G.S. 7B-302(d1). If the court finds that the alleged abuser has a history of violent behavior, the court shall order the alleged abuser to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist. The court may order the alleged abuser to pay the cost of any mental health evaluation required under this section."

Section 5. G.S. 7B-506, as enacted by Section 6 of S.L. 1998-202 and as amended by Section 21 of S.L. 1998-229, is amended by adding a new subsection to read:

1     "(c1) In determining whether continued custody is warranted, the court shall give  
2     considerable weight to the opinion of the mental health professional who performed  
3     an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of  
4     that individual."

5             Section 6. G.S. 7B-903, as enacted by Section 6 of S.L. 1998-202 and as  
6     amended by Section 23 of S.L. 1998-229, reads as rewritten:

7     **"§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

8     **(a)** The following alternatives for disposition shall be available to any court  
9     exercising jurisdiction, and the court may combine any of the applicable alternatives  
10    when the court finds the disposition to be in the best interests of the juvenile:

11            (1) The court may dismiss the case or continue the case in order to  
12               allow the parent, guardian, custodian, caretaker or others to take  
13               appropriate action.

14            (2) In the case of any juvenile who needs more adequate care or  
15               supervision or who needs placement, the court may:

16               a. Require that the juvenile be supervised in the juvenile's own  
17                  home by the department of social services in the juvenile's  
18                  county, or by other personnel as may be available to the  
19                  court, subject to conditions applicable to the parent,  
20                  guardian, custodian, or caretaker as the court may specify;  
21                  or

22               b. Place the juvenile in the custody of a parent, relative,  
23                  private agency offering placement services, or some other  
24                  suitable person; or

25               c. Place the juvenile in the custody of the department of social  
26                  services in the county of the juvenile's residence, or in the  
27                  case of a juvenile who has legal residence outside the State,  
28                  in the physical custody of the department of social services  
29                  in the county where the juvenile is found so that agency  
30                  may return the juvenile to the responsible authorities in the  
31                  juvenile's home state. The director may, unless otherwise  
32                  ordered by the court, arrange for, provide, or consent to,  
33                  needed routine or emergency medical or surgical care or  
34                  treatment. In the case where the parent is unknown,  
35                  unavailable, or unable to act on behalf of the juvenile, the  
36                  director may, unless otherwise ordered by the court, arrange  
37                  for, provide, or consent to any psychiatric, psychological,  
38                  educational, or other remedial evaluations or treatment for  
39                  the juvenile placed by a court or the court's designee in the  
40                  custody or physical custody of a county department of social  
41                  services under the authority of this or any other Chapter of  
42                  the General Statutes. Prior to exercising this authority, the  
43                  director shall make reasonable efforts to obtain consent from  
44                  a parent or guardian of the affected juvenile. If the director

1 cannot obtain such consent, the director shall promptly  
2 notify the parent or guardian that care or treatment has  
3 been provided and shall give the parent frequent status  
4 reports on the circumstances of the juvenile. Upon request  
5 of a parent or guardian of the affected juvenile, the results  
6 or records of the aforementioned evaluations, findings, or  
7 treatment shall be made available to such parent or guardian  
8 by the director unless prohibited by G.S. 122C-53(d). If a  
9 juvenile is removed from the home and placed in custody or  
10 placement responsibility of a county department of social  
11 services, the director shall not allow unsupervised visitation  
12 with, or return physical custody of the juvenile to, the  
13 parent, guardian, custodian, or caretaker without a hearing  
14 at which the court finds that the juvenile will receive proper  
15 care and supervision in a safe home.

16 In placing a juvenile in out-of-home care under this  
17 section, the court shall first consider whether a relative of  
18 the juvenile is willing and able to provide proper care and  
19 supervision of the juvenile in a safe home. If the court finds  
20 that the relative is willing and able to provide proper care  
21 and supervision in a safe home, then the court shall order  
22 placement of the juvenile with the relative unless the court  
23 finds that the placement is contrary to the best interests of  
24 the juvenile. Placement of a juvenile with a relative outside  
25 of this State must be in accordance with the Interstate  
26 Compact on the Placement of Children.

- 27 (3) In any case, the court may order that the juvenile be examined by  
28 a physician, psychiatrist, psychologist, or other qualified expert as  
29 may be needed for the court to determine the needs of the  
30 juvenile:

- 31 a. Upon completion of the examination, the court shall  
32 conduct a hearing to determine whether the juvenile is in  
33 need of medical, surgical, psychiatric, psychological, or other  
34 treatment and who should pay the cost of the treatment. The  
35 county manager, or such person who shall be designated by  
36 the chairman of the county commissioners, of the juvenile's  
37 residence shall be notified of the hearing, and allowed to be  
38 heard. If the court finds the juvenile to be in need of  
39 medical, surgical, psychiatric, psychological, or other  
40 treatment, the court shall permit the parent or other  
41 responsible persons to arrange for treatment. If the parent  
42 declines or is unable to make necessary arrangements, the  
43 court may order the needed treatment, surgery, or care, and  
44 the court may order the parent to pay the cost of the care

1 pursuant to G.S. 7B-904. If the court finds the parent is  
2 unable to pay the cost of treatment, the court shall order the  
3 county to arrange for treatment of the juvenile and to pay  
4 for the cost of the treatment. The county department of  
5 social services shall recommend the facility that will provide  
6 the juvenile with treatment.

- 7 b. If the court believes, or if there is evidence presented to the  
8 effect that the juvenile is mentally ill or is developmentally  
9 disabled, the court shall refer the juvenile to the area mental  
10 health, developmental disabilities, and substance abuse  
11 services director for appropriate action. A juvenile shall not  
12 be committed directly to a State hospital or mental  
13 retardation center; and orders purporting to commit a  
14 juvenile directly to a State hospital or mental retardation  
15 center except for an examination to determine capacity to  
16 proceed shall be void and of no effect. The area mental  
17 health, developmental disabilities, and substance abuse  
18 director shall be responsible for arranging an  
19 interdisciplinary evaluation of the juvenile and mobilizing  
20 resources to meet the juvenile's needs. If institutionalization  
21 is determined to be the best service for the juvenile,  
22 admission shall be with the voluntary consent of the parent  
23 or guardian. If the parent, guardian, custodian, or caretaker  
24 refuses to consent to a mental hospital or retardation center  
25 admission after such institutionalization is recommended by  
26 the area mental health, developmental disabilities, and  
27 substance abuse director, the signature and consent of the  
28 court may be substituted for that purpose. In all cases in  
29 which a regional mental hospital refuses admission to a  
30 juvenile referred for admission by a court and an area  
31 mental health, developmental disabilities, and substance  
32 abuse director or discharges a juvenile previously admitted  
33 on court referral prior to completion of treatment, the  
34 hospital shall submit to the court a written report setting out  
35 the reasons for denial of admission or discharge and setting  
36 out the juvenile's diagnosis, indications of mental illness,  
37 indications of need for treatment, and a statement as to the  
38 location of any facility known to have a treatment program  
39 for the juvenile in question.

40 (b) When the court has found that a juvenile has suffered physical abuse and that  
41 the individual responsible for the abuse has a history of violent behavior, the court  
42 shall give considerable weight to the opinion of the mental health professional who  
43 performed an evaluation under G.S. 7B-503(b) before returning the juvenile to the  
44 custody of that individual."

1 Section 7. G.S. 7B-904, as enacted by Section 6 of S.L. 1998-202, reads  
2 as rewritten:

3 "§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or  
4 dependent.

5 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
6 treatment pursuant to G.S. 7B-903, the court may order the parent or other  
7 responsible parties to pay the cost of the treatment or care ordered.

8 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
9 who has been adjudicated abused, neglected, or dependent, if the court finds that it is  
10 in the best interests of the juvenile for the ~~parent~~ parent, guardian, custodian, or  
11 caretaker to be directly involved in the juvenile's treatment, the court may order the  
12 ~~parent~~ parent, guardian, custodian, or caretaker to participate in medical, psychiatric,  
13 psychological, or other treatment of the juvenile. The cost of the treatment shall be  
14 paid pursuant to G.S. 7B-903.

15 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
16 who has been adjudicated abused, neglected, or dependent, the court may determine  
17 whether the best interests of the juvenile require that the ~~parent~~ parent, guardian,  
18 custodian, or caretaker undergo psychiatric, psychological, or other treatment or  
19 counseling directed toward remediating or remedying behaviors or conditions that led  
20 to or contributed to the juvenile's adjudication or to the court's decision to remove  
21 custody of the juvenile from the ~~parent~~ parent, guardian, custodian, or caretaker. If  
22 the court finds that the best interests of the juvenile require the ~~parent~~ parent,  
23 guardian, custodian, or caretaker undergo treatment, it may order ~~the parent that~~  
24 individual to comply with a plan of treatment approved by the court or condition  
25 legal custody or physical placement of the juvenile with the ~~parent~~ parent, guardian,  
26 custodian, or caretaker upon ~~the parent's~~ that individual's compliance with the plan  
27 of treatment. The court may order the ~~parent~~ parent, guardian, custodian, or  
28 caretaker to pay the cost of treatment ordered pursuant to this subsection. In cases in  
29 which the court has conditioned legal custody or physical placement of the juvenile  
30 with the ~~parent~~ parent, guardian, custodian, or caretaker upon ~~the parent's~~  
31 compliance with a plan of treatment, the court may charge the cost of the treatment  
32 to the county of the juvenile's residence if the court finds the ~~parent~~ parent, guardian,  
33 custodian, or caretaker is unable to pay the cost of the treatment. In all other cases,  
34 if the court finds the ~~parent~~ parent, guardian, custodian, or caretaker is unable to pay  
35 the cost of the treatment ordered pursuant to this subsection, the court may order ~~the~~  
36 parent that individual to receive treatment currently available from the area mental  
37 health program that serves the parent's catchment area.

38 (d) Whenever legal custody of a juvenile is vested in someone other than the  
39 juvenile's parent, after due notice to the parent and after a hearing, the court may  
40 order that the parent pay a reasonable sum that will cover, in whole or in part, the  
41 support of the juvenile after the order is entered. If the court requires the payment of  
42 child support, the amount of the payments shall be determined as provided in G.S.  
43 50-13.4(c). If the court places a juvenile in the custody of a county department of  
44 social services and if the court finds that the parent is unable to pay the cost of the

1 support required by the juvenile, the cost shall be paid by the county department of  
2 social services in whose custody the juvenile is placed, provided the juvenile is not  
3 receiving care in an institution owned or operated by the State or federal government  
4 or any subdivision thereof.

5 (e) Failure of a parent who is personally served to participate in or comply with  
6 this section may result in a proceeding for civil contempt."

7 Section 8. G.S. 7B-1003, as enacted by Section 6 of S.L. 1998-202, reads  
8 as rewritten:

9 "§ 7B-1003. Disposition pending appeal.

10 Pending disposition of an appeal, the return of the juvenile to the custody of the  
11 parent or guardian of the juvenile, with or without conditions, should issue in every  
12 case unless the court orders otherwise. When the court has found that a juvenile has  
13 suffered physical abuse and that the individual responsible for the abuse has a history  
14 of violent behavior, the court shall give considerable weight to the opinion of the  
15 mental health professional who performed the evaluation under G.S. 7B-503(b)  
16 before returning the juvenile to the custody of that individual. For compelling  
17 reasons which must be stated in writing, the court may enter a temporary order  
18 affecting the custody or placement of the juvenile as the court finds to be in the best  
19 interests of the juvenile or the State. The provisions of subsections (b), (c), and (d)  
20 of G.S. 7B-905 shall apply to any order entered under this section which provides for  
21 the placement or continued placement of a juvenile in foster care."

22 Section 9. There is appropriated from the General Fund to the  
23 Department of Health and Human Services the sum of one million five hundred  
24 thousand dollars (\$1,500,000) for the 1999-2000 fiscal year to provide mental health  
25 evaluations, criminal history checks, and support to the Department of Justice to  
26 implement the child protective measures required by this act.

27 Section 10. This act becomes effective July 1, 1999, and applies to  
28 petitions filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1062

Short Title: Substance Abuse Certification.

(Public)

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Sponsors: Senator Metcalf.

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Referred to: Children & Human Resources.

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April 15, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING THE NORTH CAROLINA SUBSTANCE ABUSE  
3 PROFESSIONAL CERTIFICATION BOARD TO DEFINE THE TERM  
4 CLINICAL SUPERVISOR INTERN AND AMENDING CERTIFICATION  
5 REQUIREMENTS FOR SUBSTANCE ABUSE PROFESSIONALS.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 90-113.31 reads as rewritten:  
8 "§ 90-113.31. Definitions.  
9 The following definitions shall apply in this Article:  
10 (1) Board. -- The North Carolina Substance Abuse Professional  
11 Certification Board.  
12 (1a) Certified clinical addictions specialist. -- A person certified by the  
13 Board to practice as a clinical addictions specialist in accordance  
14 with the provisions of this Article.  
15 (1b) Certified clinical supervisor. -- A person certified by the Board to  
16 practice as a clinical supervisor in accordance with the provisions  
17 of this Article.  
18 (1c) Certified residential facility director. -- A person certified by the  
19 Board to practice as a residential facility director in accordance  
20 with the provisions of this Article.  
21 (2) Certified substance abuse counselor. -- A person certified by the  
22 Board to practice as a substance abuse counselor in accordance  
23 with the provisions of this Article.  
24 (3) Repealed by S.L. 1997-492, s. 2.

- 1           (3a) Certified substance abuse prevention consultant. -- A person  
2           certified by the Board to practice substance abuse prevention in  
3           accordance with the provisions of this Article.
- 4           (4) Clinical supervisor intern. -- A person designated by the Board to  
5           practice as a clinical supervisor intern for a period not to exceed  
6           three years without a showing of good cause in accordance with  
7           the provisions of this Article.
- 8           (4a) Credentialing body. -- A board that licenses, certifies, or regulates  
9           a profession or practice.
- 10          (4b) Deemed status. -- Recognition by the Board of the credentials  
11          offered by a professional discipline whereby the individuals  
12          certified, licensed, or otherwise recognized by the discipline as  
13          having met the standards of a substance abuse specialist may apply  
14          individually for certification as a certified clinical addictions  
15          specialist.
- 16          (4c) Human services field. -- An area of study that focuses on the  
17          biological, psychological, and social aspects of human beings.
- 18          ~~(4d) Intern. -- A person who successfully completes 300 hours of Board~~  
19          ~~approved supervised practical training and a written examination~~  
20          ~~in pursuit of certification as a substance abuse counselor.~~
- 21          (5) Prevention. -- The reduction, delay, or avoidance of alcohol and of  
22          other drug use behavior. "Prevention" includes the promotion of  
23          positive environments and individual strengths that contribute to  
24          personal health and well-being over an entire life and the  
25          development of strategies that encourage individuals, families, and  
26          communities to take part in assessing and changing their lifestyle  
27          and environments.
- 28          (6) Professional discipline. -- A field of study characterized by the  
29          technical, educational, and ethical standards of a profession.
- 30          (7) Substance abuse counseling. -- The assessment, evaluation, and  
31          provision of counseling to persons suffering from substance, drug,  
32          or alcohol abuse or dependency.
- 33          (7a) Substance abuse counselor inter. -- A person who successfully  
34          completes 300 hours of Board approved supervised practical  
35          training and a written examination in pursuit of certification as a  
36          substance abuse counselor.
- 37          (8) Substance abuse professional. -- A certified substance abuse  
38          counselor, certified substance abuse prevention consultant, certified  
39          clinical supervisor, certified clinical addictions specialist, or  
40          certified residential facility director."

41          Section 2. G.S. 90-113.32(b) reads as rewritten:

42          "(b) Until the full Board is elected or appointed pursuant to subsection (c) of this  
43          section, the Board shall consist of 16 members with one member appointed by the  
44          General Assembly upon the recommendation of the Speaker of the House of

1 Representatives in accordance with G.S. 120-121, and one member appointed by the  
2 General Assembly upon the recommendation of the President Pro Tempore of the  
3 Senate in accordance with G.S. 120-121. The remaining 14 shall be those members of  
4 the current North Carolina Substance Abuse Professional Certification Board, Inc.,  
5 who have terms that are unexpired as of the effective date of this Article. The initial  
6 Board shall appoint an initial Nominating and Elections Committee to fill immediate  
7 vacancies on the Board, using the process established in subsection (d) of this section.  
8 The election and appointment process of the initial Board shall result in a Board of  
9 19 members by April 1, 1995. As these initial ~~members~~ members' terms expire, their  
10 successors shall be appointed as described in subsection (c) of this section, until the  
11 permanent Board is established, as described in subsection (c) of this section. Time  
12 spent as an initial member counts in determining the limitation on consecutive terms  
13 prescribed in subsection (e) of this section."

14 Section 3. G.S. 90-113.32(c) reads as rewritten:

15 "(c) After the initial Board ~~members~~ members' terms expire, the Board shall  
16 consist of the following members, all of whom shall reside in North Carolina,  
17 appointed or elected as follows:

- 18 (1) Eleven professionals certified pursuant to this Article and elected  
19 by the certified professionals, at least two of whom shall serve each  
20 of the four Division of Mental Health, Developmental Disabilities,  
21 and Substance Abuse Services regions of the State. Three members  
22 shall serve as members at large.
- 23 (2) Three members at large chosen from laypersons or other  
24 professional disciplines who have shown a special interest in the  
25 field of substance abuse, nominated by the ~~Nominations~~  
26 Nominating and Elections Committee established by subsection (d)  
27 of this section and elected by the Board.
- 28 (3) Two members from the Division of Mental Health, Developmental  
29 Disabilities, and Substance Abuse Services, Department of Health  
30 and Human Services, appointed by the Chief of Substance Abuse  
31 Services Section, Division of Mental Health, Developmental  
32 Disabilities, and Substance Abuse Services, Department of Health  
33 and Human Services, at least one of whom is from the Substance  
34 Abuse Services Section.
- 35 (4) One member of the public at large appointed by the Governor.
- 36 (5) One member of the public at large appointed by the General  
37 Assembly upon the recommendation of the Speaker of the House  
38 of Representatives in accordance with G.S. 120-121 and one  
39 member of the public at large appointed by the General Assembly  
40 upon the recommendation of the President Pro Tempore of the  
41 Senate in accordance with G.S. 120-121.
- 42 (6) One member shall represent each of the professional disciplines  
43 granted deemed status under G.S. 90-113.41A. The member may  
44 be appointed by the professional discipline on or before a date set

by the Board. If the professional discipline has at least one association in the State, the member shall be chosen from a list of nominees submitted to the association. The members appointed or elected under this subdivision shall be certified as substance abuse specialists by the professional discipline that the members represent.

No member of the General Assembly shall serve on the Board."

Section 4. G.S. 90-113.32(e) reads as rewritten:

"(e) Members of the Board shall serve for three-year terms. No Board member shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Board for a period of at least one year. When a vacancy occurs in an unexpired term, the Board shall, as soon as practicable, appoint temporary members to serve until ~~the next membership election~~. the end of the unexpired terms. Time spent as a temporary member does not count in determining the limitation on consecutive terms."

Section 5. G.S. 90-113.33 reads as rewritten:

**"§ 90-113.33. Board; powers and duties.**

The Board shall:

- (1) Examine and determine the qualifications and fitness of applicants for certification to practice in this State.
- (1a) Determine the qualifications and fitness of organizations applying for deemed status.
- (2) Issue, renew, deny, suspend, or revoke certification to practice in this State or reprimand or otherwise discipline certificate holders in this State. Denial of an applicant's certification or the granting of certification on a probationary or other conditional status shall be subject to substantially the same rules and procedures prescribed by the Board for review and disciplinary actions against those persons holding certificates. Disciplinary actions involving a clinical addictions specialist whose certification is achieved through deemed status shall be initially heard by the specialist's credentialing body. The specialist may appeal the body's decision to the Board. The Board shall, however, have the authority to hear the initial disciplinary action involving a clinical addictions specialist.
- (3) Deal with issues concerning reciprocity.
- (4) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining exists.
- (5) Employ the professional and clerical personnel necessary to carry out the provisions of this Article. The Board may purchase or rent necessary office space, equipment, and supplies.
- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case", as defined in Chapter 150B, arises.

- (7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is desirable.
- (8) Establish fees for applications for examination, certificates of certification and renewal, and other services provided by the Board.
- (9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.

The powers and duties enumerated in this section are granted for the purposes of enabling the Board to safeguard the public health, safety, and welfare against unqualified or incompetent practitioners and are to be liberally construed to accomplish this objective. When the Board exercises its authority under this Article to discipline a person, it may, as part of the decision imposing the discipline, charge the costs of investigations and the hearing to the person disciplined."

Section 6. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-113.33A. Officers may administer oaths, and subpoena witnesses, records, and other materials.**

The President or other presiding officer of the Board may administer oaths to all persons appearing before it as the Board may deem necessary to perform its duties, and may summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Board. The Board may order that any client records, documents, or other materials concerning any matter to be heard before or inquired into by the Board shall be produced before the Board or made available for inspection, notwithstanding any other provisions of law providing for the application of any privilege with respect to such records, documents, or other materials. All records, documents, or other materials compiled by the Board are subject to the provisions of G.S. 90-113.34, except that in any proceeding before the Board, record of any hearing before the Board, and notice of charges against any person certified by the Board, the Board shall withhold from public disclosure the identity of a client, including information relating to dates and places of treatment, or any other information that tends to identify the client unless the client or the client's representative has expressly consented to the disclosure. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a matter in issue, the subpoena does not describe the evidence with sufficient particularity, or the subpoena is invalid."

Section 7. G.S. 90-113.34 reads as rewritten:

**"§ 90-113.34. Records to be kept; copies of records.**

~~The Board shall obtain documentation of all proceedings under this Article and a record of all persons certified under it. The record~~ (a) The Board shall keep a regular record of its proceedings, together with the names of the members of the Board present, the names of the applicants for certification, and other information relevant to its actions. The Board shall cause a record to be kept that shall show the

1 name, last known place of business, last known place of residence, and date and  
2 number of the certificate of certification as a certified substance abuse counselor,  
3 certified substance abuse prevention consultant, certified clinical supervisor, certified  
4 clinical addictions specialist, or certified residential facility director for every living  
5 certified person. Any interested person in the State is entitled to obtain a copy of that  
6 record on application to the Board and upon payment of a reasonable charge that is  
7 based on the costs involved in providing the copy. ~~The Board shall keep a hard copy~~  
8 ~~of all records.~~

9 (b) The Board may in a closed session receive evidence regarding the provision of  
10 substance abuse counseling or other treatment and services provided to a client who  
11 has not expressly or through implication consented to the public disclosure of such  
12 treatment as may be necessary for the protection of the rights of the client or of the  
13 accused substance abuse professional and the full presentation of relevant evidence.  
14 All records, papers, and other documents containing information collected and  
15 compiled by the Board, its members, or employees as a result of investigations,  
16 inquiries, or interviews conducted in connection with a certification or disciplinary  
17 matter shall not be considered public records within the meaning of Chapter 132 of  
18 the General Statutes, except any notice or statement of charges, or notice of hearing  
19 shall be a public record notwithstanding that it may contain information collected  
20 and compiled as a result of an investigation, inquiry, or interview. If any record,  
21 paper, or other document containing information collected and compiled by the  
22 Board as provided in this subsection is received and admitted in evidence in any  
23 hearing before the Board, it shall thereupon be a public record.

24 (c) Notwithstanding any provision to the contrary, the Board may, in any  
25 proceeding, record of any hearing, and notice of charges, withhold from public  
26 disclosure the identity of a client who has not expressly or through implication  
27 consented to such disclosure of treatment by the accused substance abuse  
28 professional."

29 Section 8. G.S. 90-113.37 reads as rewritten:

30 **"§ 90-113.37. Renewal of certification; lapse; revival.**

31 (a) Every person certified pursuant to this Article who desires to maintain  
32 certification status shall apply to the Board for a renewal of certification every other  
33 year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is  
34 subject to completion of no more than 60 hours of those continuing education  
35 requirements established by the Board. A clinical supervisor shall ~~also~~ complete 15  
36 hours of substance abuse clinical supervision ~~or~~ training prior to the certificate being  
37 renewed. Certification that is not renewed automatically lapses, unless the Board  
38 provides for the late renewal of certification upon the payment of a late fee. No late  
39 renewal shall be granted more than five years after a certification expires. A  
40 suspended certification is subject to this section's renewal requirements and may be  
41 renewed as provided in this section. This renewal does not entitle the certified person  
42 to engage in the certified activity or in any other conduct or activity in violation of  
43 the order or judgment by which the certification was suspended, until the certification  
44 is reinstated. If a certification revoked on disciplinary grounds is reinstated and

1 requires renewal, the certified person shall pay the renewal fee and any applicable  
2 late fee.

3 (b) The Board shall establish the manner in which lapsed certification may be  
4 revived or extended."

5 Section 9. G.S. 90-113.39 reads as rewritten:

6 **"§ 90-113.39. Standards for certification.**

7 The Board shall establish standards for certification of substance abuse  
8 professionals. The certification standards of the ~~International Certification Reciprocity~~  
9 ~~Consortium/Alcohol and Other Drug Abuse~~ International Certification and  
10 Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the  
11 standards adopted by professional disciplines granted deemed status or their successor  
12 organizations may be used as guidelines for the Board's standards. The Board shall  
13 publish these required standards separately from its rules so as to provide easy access  
14 to the standards."

15 Section 10. G.S. 90-113.40 reads as rewritten:

16 **"§ 90-113.40. Requirements for certification.**

17 (a) The Board shall issue a certificate certifying an applicant as a 'Certified  
18 Substance Abuse Counselor' or as a 'Certified Substance Abuse Prevention  
19 Consultant' if:

- 20 (1) The applicant is of good moral character.
- 21 (2) The applicant is not and has not engaged in any practice or  
22 conduct that would be grounds for disciplinary action under G.S.  
23 90-113.44.
- 24 (3) The applicant is qualified for certification pursuant to the  
25 requirements of this Article and any rules adopted pursuant to it.
- 26 (4) The applicant has, at a minimum, a high school diploma or a high  
27 school equivalency certificate.
- 28 (5) The applicant has signed a form attesting to the intention to adhere  
29 fully to the ethical standards adopted by the Board.
- 30 (6) The applicant has completed 270 hours of Board-approved  
31 education. The Board may prescribe that a certain number of  
32 hours be in a course of study for substance abuse counseling and  
33 that a certain number of hours be in a course of study for  
34 substance abuse prevention consulting.
- 35 (7) The applicant has documented completion of a minimum of 300  
36 hours of Supervised Practical Training and has provided a Board-  
37 approved supervision contract between the applicant and an  
38 approved supervisor.
- 39 (8) The applicant for substance abuse counselor has completed either  
40 a total of 6,000 hours of supervised experience in the field, whether  
41 paid or volunteer, or, if a graduate of a Board-approved master's  
42 degree program, a total of 3,000 hours of supervised experience in  
43 the field, whether paid or volunteer. The applicant for substance  
44 abuse prevention consultant has completed a total of 10,000 hours

supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services ~~field~~. field from a regionally accredited college or university.

- (9) The applicant has successfully completed a written examination and an oral examination promulgated and administered by the Board.

(b) The Board shall issue a certificate certifying an individual as a 'Certified Clinical Supervisor' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

- (1) ~~Has been certified as a substance abuse counselor or a clinical addictions specialist.~~

Submits proof of designation by the Board as a clinical supervisor intern.

- (2) Prior to June 30, 1998, the applicant presents proof that the applicant has 12,000 hours experience in alcohol and drug abuse counseling and a bachelors degree or 8,000 hours experience in alcohol and drug abuse counseling and a minimum of a master's degree. After June 30, 1998, the applicant shall present proof that the applicant has a minimum of a master's ~~degree~~. degree in a human services field with a clinical application from a regionally accredited college or university.

- (3) Has 6,000 hours experience as a substance abuse clinical supervisor if the applicant has a bachelors degree or 4,000 hours experience if the applicant has a master's ~~degree~~. degree in a human services field with a clinical application from a regionally accredited college or university.

- (4) Has 30 hours of substance abuse clinical supervision specific education or training. These hours shall be reflective of the 12 core functions in the applicant's clinical application and practice and may also be counted toward the applicant's recertification as a substance abuse counselor.

- (5) Submits a letter of reference from a professional who can attest to the applicant's supervisory competence and two letters of reference from either counselors who have been supervised by the applicant or professionals who can attest to the applicant's competence.

- (6) Successfully completes a written examination administered by the Board.

(b1) The Board shall designate an applicant as a 'Clinical Supervisor Intern' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant meets the following qualifications:

- (1) Submits an application, resume, and official transcript showing that the applicant has obtained a master's degree in a human services

- 1 field with a clinical application from a regionally accredited  
2 college or university.  
3 (2) Submits verification statements.  
4 (3) Submits proof of certification as a certified substance abuse  
5 counselor or a certified clinical addictions specialist.  
6 (4) Submits documentation establishing that the applicant has  
7 completed at least fifty percent (50%) of the required clinical  
8 supervision specific training hours as defined by the Board.

9 (c) The Board shall issue a certificate certifying an applicant as a 'Certified  
10 Clinical Addictions Specialist' if, in addition to meeting the requirements of  
11 subdivisions (a) (1) through (5) of this section, the applicant meets one of the  
12 following criteria:

- 13 (1) Criteria A. -- The applicant:  
14 a. Has a minimum ~~of~~ of a master's degree with a clinical  
15 application in a human services ~~field~~ field from a regionally  
16 accredited college or university.  
17 b. Has two years postgraduate supervised substance abuse  
18 counseling experience.  
19 c. Submits three letters of reference from certified clinical  
20 addictions specialists or certified substance abuse  
21 ~~professionals.~~ counselors who have obtained master's  
22 degrees.  
23 d. Has achieved a combined score set by the Board on a  
24 master's level written and oral examination administered by  
25 the Board.  
26 e. Has attained 180 hours of substance abuse specific training  
27 as described in G.S. 90-113.41A.  
28 f. The applicant has documented completion of a minimum of  
29 300 hours of supervised practical training and has provided  
30 a Board-approved supervision contract between the  
31 applicant and an approved supervisor.  
32 (2) Criteria B. -- The applicant:  
33 a. Has a minimum of a master's degree with a clinical  
34 application in a human services ~~field~~ field from a regionally  
35 accredited college or university.  
36 b. Has been certified as a substance abuse counselor.  
37 c. Has one year of postgraduate supervised substance abuse  
38 counseling experience.  
39 d. Has achieved a passing score on a master's level written  
40 examination administered by the Board.  
41 e. Submits three letters of reference from certified clinical  
42 addictions specialists or certified substance abuse  
43 ~~professionals.~~ counselors who have obtained master's  
44 degrees.

(3) Criteria C. -- The applicant:

- a. Has a minimum of a master's degree in a human services field with a clinical application and a substance abuse specialty from a regionally accredited college or university that includes 180 hours of substance abuse specific education and training pursuant to G.S. ~~113.41A.~~ 90-113.41A.
- b. Has one year of postgraduate supervised substance abuse counseling experience.
- c. Has achieved a passing score on an oral examination administered by the Board.
- d. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse ~~professionals.~~ counselors who have obtained master's degrees.

(4) Criteria D. -- The applicant has a substance abuse certification from a professional discipline that has been granted deemed status by the Board.

(d) The Board shall issue a certificate certifying an applicant as a 'Certified Residential Facility Director' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

- (1) Has been certified as a substance abuse ~~counselor.~~ counselor or a clinical addictions specialist.
- (2) Has 50 hours of Board approved academic or didactic management specific training or a combination thereof.
- (3) Submits letters of reference from the applicant's current supervisor and a colleague or coworker.

(e) The Board shall publish from time to time information in order to provide specifics for potential applicants of an acceptable educational curriculum and the terms of acceptable supervised fieldwork experience.

(f) Effective until January 1, 2001, any person who is certified as a certified clinical supervisor or who functions by his or her job description as a certified clinical supervisor shall be qualified to supervise applicants for certified clinical supervisor.

Effective from January 1, 2001 until January 1, 2003, only a person who is certified both as a certified clinical supervisor and as a certified clinical addictions specialist shall be qualified to supervise applicants for certified clinical addictions specialist, but a person who is certified as a certified clinical supervisor or a certified clinical addictions specialist shall be qualified to supervise an applicant for certification as a certified substance abuse counselor.

Effective January 1, 2003, only a person who is certified as a certified clinical supervisor or a clinical supervisor intern shall be qualified to supervise applicants for certified clinical supervisor and certified substance abuse counselor and applicants

1 for certified clinical addictions specialist who meet the qualifications of their  
2 credential other than through deemed status as provided in G.S. 90-113.40(c)(4)."

3 Section 11. G.S. 90-113.41 reads as rewritten:

4 "**§ 90-113.41. Examination.**

5 (a) Except for those individuals applying for certification under G.S. 90-113.41A,  
6 applicants for certification under this Article shall file an application at least 60 days  
7 prior to the date of examination and upon the forms and in the manner prescribed by  
8 the Board. The application shall be accompanied by the appropriate fee. No portion  
9 of this fee is refundable. Applicants who fail an examination may apply for  
10 reexamination upon the payment of another examination fee.

11 (b) Each applicant for certification under this Article shall be examined in an  
12 examination that is consistent with the examination requirements of the ~~International~~  
13 ~~Certification Reciprocity Consortium/Alcohol and Other Drug Abuse International~~  
14 ~~Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse~~  
15 ~~Incorporated~~ and the standards adopted by professional disciplines granted deemed  
16 ~~status.~~ status or their successor organizations.

17 (c) Applicants for certification shall be examined at a time and place and under  
18 the supervision that the Board determines. Examinations shall be given in this State  
19 at least twice each year.

20 (d) Applicants may obtain their examination scores and may review their  
21 examination papers in accordance with rules the Board ~~adopts.~~ adopts and  
22 agreements between Board-authorized test development companies."

23 Section 12. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1134\*

Short Title: Welfare Reform Changes.

(Public)

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Sponsors: Senators Martin of Guilford, Lucas; Ballance, Jordan, and Phillips.

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Referred to: Children & Human Resources.

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April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE TEMPORARY ASSISTANCE FOR  
3 NEEDY FAMILIES LAW PERTAINING TO THE MEDICAID STANDARD OF  
4 NEED, PAY-AFTER-PERFORMANCE FOR TWO-PARENT FAMILIES, TIME  
5 LIMITATIONS ON ASSISTANCE, AND OTHER AREAS OF WELFARE  
6 REFORM.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 108A-27.2 is amended by adding the following new  
9 subdivisions to read:

10 "The Department shall have the following general duties with respect to the Work  
11 First Program:

12 ...

13 (1b) Ensure that eligibility criteria across the State include the Medicaid  
14 Standard of Need for the Categorically Needy;

15 (1c) Ensure that qualified two-parent families receive assistance for  
16 three months after qualifying for assistance, in order to encourage  
17 families to stay together and to overcome barriers to self-sufficiency  
18 and gainful employment."

19 Section 2. G.S. 108A-27.9(c) is amended by adding the following new  
20 subdivisions to read:

21 "(c) The State Plan shall include the following generally applicable provisions:

22 ...

(1b) Provisions to ensure that eligibility criteria across the State include the Medicaid Eligibility Standard of Need for the categorically needy;

(1c) Provisions to ensure that qualified two-parent families receive assistance for three months after qualifying for assistance, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment."

Section 3. G.S. 108A-27.1 reads as rewritten:

**"§ 108A-27.1. Time limitations on assistance.**

(a) Under the Standard Work First Program, unless an extension or an exemption is provided pursuant to the provisions of the Part or the State Plan, any cash assistance provided to a person or family in the employment program shall only be provided for a cumulative total of 24 months. After having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after ~~36~~ 18 months from the last month the person or the family received cash assistance. This subsection shall not apply to child-only cases.

(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict with or exceed any federal time limitations."

Section 4. G.S. 108A-27.3(a) is amended by adding the following new subdivision to read:

"(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

...

(10a) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:

a. Ensure that time limitations on assistance have been computed correctly;

b. Ensure that the family is informed in writing about public assistance benefits for which the family is eligible even while cash assistance is no longer available;

c. Provide for an extension of cash assistance benefits if the family qualifies for an extension; and

d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

Section 5. G.S. 108A-27.4(e) is amended by adding the following new subdivision to read:

"(e) Each county shall include in its County Plan the following:

...

(7) The process by which the county will review all Work First caseloads no later than three months prior to expiration of time limitations for receiving cash assistance to:

- a. Ensure that time limitations on assistance have been computed correctly;
- b. Ensure that the family is informed in writing about public assistance benefits for which the family is eligible even while cash assistance is no longer available;
- c. Provide for an extension of cash assistance benefits if the family qualifies for an extension; and
- d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

Section 6. G.S. 108A-27.6(a) is amended by adding the following new subdivision to read:

"(a) Except as otherwise provided in this Article, the Standard Work First Program shall be administered by the county departments of social services. The county departments of social services in Standard Program Counties shall:

...

- (10) Ensure that all Work First cases are reviewed no later than three months prior to expiration of time limitations for receiving cash assistance to:

- a. Ensure that time limitations on assistance have been computed correctly;
- b. Ensure that the family is informed about public assistance benefits for which the family is eligible even while cash assistance is no longer available;
- c. Provide for an extension of cash assistance benefits if the family qualifies for an extension; and
- d. Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability."

Section 7. G.S. 108A-27.2 is amended by adding the following new subdivision to read:

"The Department shall have the following general duties with respect to the Work First Program:

...

- (14) Review the county Work First Program of each electing county and recommend whether the county should continue to be designated an electing county or whether it should be redesignated as a standard county. In conducting its review and making its recommendation, the Department shall:
  - a. Examine and consider the results of the Department's monitoring and evaluation of the impact of the electing county's Work First Program as required under subdivision (9) of this section;

1                   b.   Determine whether the electing county's Work First  
2                       Program's unique design requires implementation by an  
3                       electing county or whether the Work First Program could be  
4                       implemented by a county designated as a standard county;

5                   c.   Determine whether the electing county's Work First  
6                       Program and policies are unique and innovative in meeting  
7                       the purpose of the Work First Program as stated under G.S.  
8                       108A-27, and State and federal laws, rules, and regulations,  
9                       as compared to other standard and electing county Work  
10                      First programs.

11                   The Department shall make its recommendation and the reasons  
12                      therefor to the Joint Legislative Public Assistance Commission at  
13                      the time the Department submits the State Plan to the Commission  
14                      for review as required under G.S. 108A-27.9(a)."

15                   Section 8. The Department of Health and Human Services shall amend  
16 the North Carolina Temporary Assistance for Needy Families State Plan to include  
17 and reflect changes to State law made by this act and any other act of the 1999  
18 General Assembly.

19                   Section 9. This act is effective when it becomes law.



# SENATE BILL 1134: Welfare Reform Changes

## BILL ANALYSIS

**Committee:** Senate Children & Human Resources

**Date:** April 21, 1999

**Version:** 1

**Introduced by:** Senator Martin of Guilford and Senator Lucas

**Summary by:** Committee Co-Counsel

### **SUMMARY:** *This bill makes the following substantive changes:*

- 1) Requires DHHS to ensure that the eligibility criteria for the Work First Program include the Medicaid Standard of Need for the Categorically Needy. This requirement must be placed in the State Plan.*
- 2) Requires DHHS to ensure that qualified two-parent families receive assistance for 3 months after qualifying for assistance. This requirement must also be placed in the State Plan.*
- 3) Reduces the period that a person must wait in standard counties to reapply for cash assistance from 36 months to 18 months.*
- 4) Requires the county boards of commissioners in electing counties, and the county departments of social services in standard counties to review Work First cases at least 3 months prior to the expiration of the time limitations for receiving cash assistance.*
- 5) Requires DHHS to review the county Work First Programs of each electing county and recommend whether the county should continue to be designated as an electing county.*

### **BILL ANALYSIS:**

DHHS has numerous duties with respect to the Work First Program. This bill would add to those duties the requirement that DHHS ensure that all Work First Programs (standard and electing county programs) include in its eligibility criteria, the Medicaid Standard of Need for the Categorically Needy. The term "**standard of need**" refers to the amount of income a family may earn and still qualify for Work First Assistance. The standard that this bill would require DHHS to use is the current standard being applied by DHHS however, once the State Plan is fully implemented, this standard would not be applicable. Therefore, this bill would codify the current practice of DHHS in establishing eligibility criteria.

The bill also adds to DHHS's duties the requirement that the Work First Program of each electing county be reviewed by DHHS. DHHS would be required to make a recommendation to the Joint Legislative Public Assistance Commission stating whether the electing county should remain electing or be redesignated as a standard county. When conducting its review and making a recommendation, DHHS must:

# SENATE BILL 1134

Page 2

- 1) Examine and consider the results of the Department's monitoring and evaluation of the impact of the electing county's program on children and families;
- 2) Determine whether the electing county's Work First Program's unique design requires implementation by an electing county or whether the Work First Program could be implemented by a county designated as a standard county;
- 3) Determine whether the electing county's Work First Program and policies are unique and innovative in meeting the purpose of the Work First Program, State and federal laws, rules, and regulations, as compared to other standard and electing county programs.

This bill also requires that DHHS ensure that qualified two-parent families receive assistance for three months after qualifying for assistance. The purpose of this requirement is to encourage families to state together and to overcome barriers of self-sufficiency and gainful employment.

The bill reduces the waiting period in standard counties for reapplying for cash assistance to 18 months. Current law provides that after receiving cash assistance for 24 months, a person or a family must wait 36 months from the last month the person or family received cash assistance before reapplying.

The bill also requires both standard and electing counties to review Work First cases no later than three months prior to the expiration of the time limitation for receiving cash assistance. The review must:

- 1) Ensure that the time limitations on assistance have been computed correctly;
- 2) Ensure that the family is informed about public assistance benefits for which the family is eligible even while cash assistance is no longer available;
- 3) Provide for an extension of cash assistance benefits if the family qualifies for an extension; and
- 4) Review family status and assist the family in identifying resources and support the family needs to maintain employment and family stability.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 432

Short Title: Health Care Personnel Registry Changes.

(Public)

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Sponsors: Senators Carpenter and Phillips.

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Referred to: Children & Human Resources.

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March 22, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE FACILITIES THAT ARE INCLUDED IN THE  
3 HEALTH CARE PERSONNEL REGISTRY; TO PROVIDE THAT  
4 GRIEVANCES PERTAINING TO THE HEALTH CARE PERSONNEL  
5 REGISTRY FILED BY STATE EMPLOYEES SHALL BE IN ACCORDANCE  
6 WITH STATE PERSONNEL PROCEDURES; AND TO REQUIRE THAT  
7 EMPLOYERS AT HEALTH CARE FACILITIES ACCESS THE HEALTH  
8 CARE PERSONNEL REGISTRY.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 131E-256 reads as rewritten:

11 "**§ 131E-256. Health Care Personnel Registry.**

12 (a) The Department shall establish and maintain a health care personnel registry  
13 containing the names of all health care personnel working in health care facilities in  
14 North Carolina who have:

15 (1) Been subject to findings by the Department of:

- 16 a. Neglect or abuse of a resident in a health care facility or a  
17 person to whom home care services as defined by G.S.  
18 131E-136 or hospice services as defined by G.S. 131E-201  
19 are being provided.  
20 b. Misappropriation of the property of a resident in a health  
21 care facility, as defined in subsection (b) of this section  
22 including places where home care services as defined by  
23 G.S. 131E-136 or hospice services as defined by G.S. 131E-  
24 201 are being provided.

- c. Misappropriation of the property of a health care facility.
- d. Diversion of drugs belonging to a health care facility or to a patient or client.
- e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

- (2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The health care personnel registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(b) For the purpose of this section, the following are considered to be 'health care facilities':

- (1) Adult Care Homes as defined in G.S. 131D-2.
- (2) Hospitals as defined in G.S. 131E-76.
- (3) Home Care Agencies as defined in G.S. 131E-136.
- (4) Nursing Pools as defined by G.S. 131E-154.2.
- (5) Hospices as defined by G.S. 131E-201.
- (6) Nursing Facilities as defined by G.S. 131E-255.
- (7) State-Operated Facilities as ~~set forth in G.S. 122C-22.~~ defined in G.S. 122C-3(14)f.
- (8) ~~Residential Facilities and Hospitals for the Mentally Ill, Developmentally Disabled, or Substance Abusers licensed pursuant to G.S. 122C-23.~~ as defined in G.S. 122C-3(14)e.
- (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.

(c) For the purpose of this section, the following are considered to be 'health care personnel':

- (1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) A nurse aide.
- (3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.
- (4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.

(d) Except as otherwise provided in this subsection, health ~~Health~~ care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30

1 days of the mailing of the written notice of the Department's intent to place its  
2 findings about the person in the health care personnel registry. Health care  
3 personnel who are career State employees as defined by G.S. 126-1.1 who wish to  
4 contest findings under subdivision (a)(1) of this section must do so by following the  
5 grievance procedures established by Article 8 of Chapter 126 of the General Statutes  
6 as administered by the State Personnel Commission.

7 (d1) Health care personnel who wish to contest the placement of information  
8 under subdivision (a)(2) of this section are entitled to an administrative hearing as  
9 provided by the Administrative Procedure Act, Chapter 150B of the General Statutes.  
10 A petition for a contested case hearing shall be filed within 30 days of the mailing of  
11 the written notice of the Department's intent to place information about the person  
12 in the health care personnel registry under subdivision (a)(2) of this section. Health  
13 care personnel who have filed a petition contesting the placement of information in  
14 the health care personnel registry under subdivision (a)(2) of this section are deemed  
15 to have challenged any findings made by the Department at the conclusion of its  
16 investigation.

17 (d2) Before hiring health care personnel into a health care facility or service,  
18 every employer at a health care facility shall access the Health Care Personnel  
19 Registry and shall note each incident of access in the appropriate business files.

20 (e) The Department shall provide an employer or potential employer of any  
21 person listed on the health care personnel registry of the nature of the finding or  
22 allegation and the status of the investigation.

23 (f) No person shall be liable for providing any information for the health care  
24 personnel registry if the information is provided in good faith. Neither an employer,  
25 potential employer, nor the Department shall be liable for using any information  
26 from the health care personnel registry if the information is used in good faith for the  
27 purpose of screening prospective applicants for employment or reviewing the  
28 employment status of an employee.

29 (g) Upon investigation and documentation, health care facilities shall ensure that  
30 the Department is notified of all allegations against health care personnel which  
31 appear to a reasonable person to be related to any act listed in subdivision (a)(1) of  
32 this section, and shall promptly report to the Department any resulting disciplinary  
33 action, demotion, or termination of employment of health care personnel.

34 (h) The North Carolina Medical Care Commission shall adopt, amend, and repeal  
35 all rules necessary for the implementation of this section."

36 Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA SENATE  
COMMITTEE SUBSTITUTE  
SESSION 1999

APR 26 1999

S

D

SENATE BILL 432  
Proposed Committee Substitute S432-PCS2653-RM

**ADOPTED**

Short Title: Health Care Personnel Registry Changes.

(Public)

Sponsors:

Referred to:

March 22, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE FACILITIES THAT ARE INCLUDED IN THE  
3 HEALTH CARE PERSONNEL REGISTRY; AND TO REQUIRE THAT  
4 EMPLOYERS AT HEALTH CARE FACILITIES ACCESS THE HEALTH  
5 CARE PERSONNEL REGISTRY.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 131E-256 reads as rewritten:  
8 "§ 131E-256. Health Care Personnel Registry.  
9 (a) The Department shall establish and maintain a health care personnel registry  
10 containing the names of all health care personnel working in health care facilities in  
11 North Carolina who have:  
12 (1) Been subject to findings by the Department of:  
13 a. Neglect or abuse of a resident in a health care facility or a  
14 person to whom home care services as defined by G.S.  
15 131E-136 or hospice services as defined by G.S. 131E-201  
16 are being provided.  
17 b. Misappropriation of the property of a resident in a health  
18 care facility, as defined in subsection (b) of this section  
19 including places where home care services as defined by  
20 G.S. 131E-136 or hospice services as defined by G.S. 131E-  
21 201 are being provided.  
22 c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care facility or to a patient or client.

e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The ~~health care personnel registry~~ Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(b) For the purpose of this section, the following are considered to be 'health care facilities':

(1) Adult Care Homes as defined in G.S. 131D-2.

(2) Hospitals as defined in G.S. 131E-76.

(3) Home Care Agencies as defined in G.S. 131E-136.

(4) Nursing Pools as defined by G.S. 131E-154.2.

(5) Hospices as defined by G.S. 131E-201.

(6) Nursing Facilities as defined by G.S. 131E-255.

(7) State-Operated Facilities as ~~set forth in G.S. 122C-22~~ defined in G.S. 122C-3(14)f.

(8) Residential Facilities ~~and Hospitals for the Mentally Ill, Developmentally Disabled, or Substance Abusers licensed pursuant to G.S. 122C-23~~ as defined in G.S. 122C-3(14)e.

(9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.

(c) For the purpose of this section, the following are considered to be 'health care personnel':

(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) A nurse aide.

(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.

(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the

1 Department's intent to place its findings about the person in the ~~health care~~  
2 ~~personnel registry~~. Health Care Personnel Registry.

3 (d1) Health care personnel who wish to contest the placement of information  
4 under subdivision (a)(2) of this section are entitled to an administrative hearing as  
5 provided by the Administrative Procedure Act, Chapter 150B of the General Statutes.  
6 A petition for a contested case hearing shall be filed within 30 days of the mailing of  
7 the written notice of the Department's intent to place information about the person  
8 in the ~~health care personnel registry~~ Health Care Personnel Registry under  
9 subdivision (a)(2) of this section. Health care personnel who have filed a petition  
10 contesting the placement of information in the health care personnel registry under  
11 subdivision (a)(2) of this section are deemed to have challenged any findings made by  
12 the Department at the conclusion of its investigation.

13 (d2) Before hiring health care personnel into a health care facility or service,  
14 every employer at a health care facility shall access the Health Care Personnel  
15 Registry and shall note each incident of access in the appropriate business files.

16 (e) The Department shall provide an employer or potential employer of any  
17 person listed on the ~~health care personnel registry~~ of Health Care Personnel Registry  
18 of the nature of the finding or allegation and the status of the investigation.

19 (f) No person shall be liable for providing any information for the health care  
20 personnel registry if the information is provided in good faith. Neither an employer,  
21 potential employer, nor the Department shall be liable for using any information  
22 from the health care personnel registry if the information is used in good faith for the  
23 purpose of screening prospective applicants for employment or reviewing the  
24 employment status of an employee.

25 (g) Upon investigation and documentation, health care facilities shall ensure that  
26 the Department is notified of all substantiated allegations against health care  
27 personnel which appear to a reasonable person to be related to any act listed in  
28 subdivision (a)(1) of this section, and shall promptly report to the Department any  
29 resulting disciplinary action, demotion, or termination of employment of health care  
30 personnel.

31 (h) The North Carolina Medical Care Commission shall adopt, amend, and repeal  
32 all rules necessary for the implementation of this section."

33 Section 2. This act becomes effective July 1, 1999.

#  
S-432

**Health Care Personnel Registry  
GS 131E-256**

The Health Care Personnel Registry contains the names of unlicensed health care personnel, such as nurse aides, personnel care aides and in-home aides who provide direct hands on care that are either under state investigation or have substantiated finding of patient abuse or neglect, misappropriation of patient or facility property, fraud against a patient or facility, or diversion of patient or facility drugs. The facilities covered by this law include hospitals, nursing homes, adult care homes, hospice agencies and facilities, home care agencies, nursing pools, and 24-hour mental health, DD or substance abuse facilities.

The changes to this act as proposed in Committee Substitute S432-PC2653-RM would accomplish the following:

GS 131E-256 (b); (7), (8) and (9) provides clarification as to the types of residential mental health, DD and substance abuse facilities that were added to the law during the 1998 legislative session. These facilities are state operated facilities which are operated by the Secretary, residential facilities which are 24-hour facilities that are not hospitals but include group homes, and 24-hour facilities which provide a structured living environment and services for a period of 24 consecutive hours or more and include hospitals that are facilities under this Chapter.

(d2)- this addition to the law will require all health care providers, as defined in the law, to access the registry prior to hiring health care personnel. This provision further requires providers to note this contact in their appropriate business files. These files would be subject to review during licensure surveys by the appropriate state or county monitoring authority. The Health Care Personnel Registry can be accessed by telephone voice response system or by contacting the Registry Office to obtain all available information. The telephone voice response system is available 24 hours a day seven days a week, while the Registry staff is available to answer telephone inquiries Monday through Friday between the hours of 9:00am and 3:00pm. The Registry is updated daily and there is no cost for accessing this information.

(g)- This proposed change would clarify that the Department is only to be notified of allegations that health care facilities, through the completion of an internal investigation, have substantiated with supporting evidence. Allegations which are not substantiated with supporting evidence are not required to be reported.



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NORTH CAROLINA DEPARTMENT  
OF ADMINISTRATION  
GOVERNOR'S ADVOCACY COUNCIL  
FOR PERSONS WITH DISABILITIES

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# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 5-26-99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Will Lang	AHHC
Paula A. Hoff	Covenant w/ NC's Children
Soren Schmidt	Justice Center
Wendy S. Cho	Rodriguez & Cho Assoc.
Jim Scarborough	Randolph & Cho Assoc.
K. Hoff	GAIPA
Kirst Hyman	DHHS
JoAnn Lamm	DHHS/DSS
Len Weber	NC A LTC 7
Dan Lemp	NC Southlight Inc.
Ann Christian	Atty NC SPCB

# **Agenda**

## **SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**May 19, 1999**

**11:00 AM**

**Call to Order**

**HB262     Enhance Child Welfare Srvives/AB Representative Culpepper**  
**HB287     Child Care Law Corrections Representative Alexander**  
**HB302     Enhance Child Support Enforce./AB. Representative Culpepper**

**Pages:**

**Rachel Garner Raleigh, N. C. Sponsor Senator Carrington**  
**Adam Attarian Raleigh, N. C. Sponsor Senator R. L. Martin**

**Sergeants at Arms: Mary Perry**  
**Ronald Spann**  
**Michael Houser**

**Next Meeting**  
**Wednesday May 26, 1999**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, May 19, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, May 19, 1999 in room 544 of the State Legislative Office Building.

Fifteen (15) members of the Committee were present.

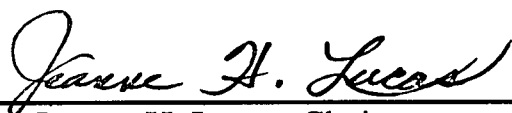
Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and sergeants-at-arms.

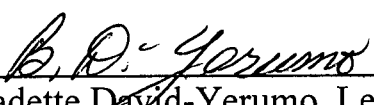
Senator Representative Alexander the bill sponsor was introduced to explain HB287 entitled Child Care Law Corrections. After some discussion of the bill Senator Dannelly moved for a favorable report, the motion carried unanimously.

Representative Culpepper the bill sponsor was introduced to explain HB302 entitled Enhance Child Support Enforce./AB. Representative Culpepper sent forth a committee substitutes and Senator Dannelly moved its adoption, which carried unanimously. After some discussion of the bill it was decided that this bill would be discussed further at the next meeting.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Revised Report

Wednesday, May 19, 1999

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

**FAVORABLE**

H.B.(CS#2) 287	Child Care Law Corrections	
	Sequential Referral:	None
	Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

4

HOUSE BILL 287\*  
Committee Substitute Favorable 3/23/99  
Committee Substitute #2 Favorable 4/23/99  
Fourth Edition Engrossed 4/29/99

Short Title: Child Care Law Corrections.

(Public)

Sponsors:

Referred to:

March 4, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL  
3 STATUTES REGARDING CHILD CARE, TO REPEAL SECTION 4(B) OF S.L.  
4 1997-506, AND TO MAKE CHANGES REGARDING THE TRAINING  
5 MATERIALS THAT MAY BE USED BY CHILD CARE FACILITIES.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 110-88 reads as rewritten:  
8 **"§ 110-88. Powers and duties of the Commission.**  
9 The Commission shall have the following powers and duties:  
10 (1) To develop policies and procedures for the issuance of a license to  
11 any child care facility that meets all applicable standards  
12 established under this Article.  
13 (1a) To adopt applicable rules and standards based upon the capacity of  
14 a child care facility.  
15 (2) To require inspections by and satisfactory written reports from  
16 representatives of local or State health ~~agencies and agencies~~, fire  
17 ~~and building~~ inspection ~~agencies agencies~~, and from representatives  
18 of the Department prior to the issuance of ~~a~~ an initial license to  
19 any child care center.

- 1 (2a) To require annually, inspections by and satisfactory written reports  
2 from representatives of local or State health agencies and fire  
3 inspection agencies after a license is issued.
- 4 (3) Repealed by Session Laws 1997-506, s. 4.
- 5 (4) Repealed by Session Laws 1975, c. 879, s. 15.
- 6 (5) To adopt rules and develop policies for implementation of this  
7 Article, including procedures for application, approval, annual  
8 compliance visits for centers, and revocation of licenses.
- 9 (6) To adopt rules for the issuance of a provisional license that shall  
10 be in effect for no more than 12 consecutive months to a child care  
11 facility that does not conform in every respect with the standards  
12 established in this Article and rules adopted by the Commission  
13 pursuant to this Article but that is making a reasonable effort to  
14 conform to the standards.
- 15 (6a) To adopt rules for administrative action against a child care facility  
16 when the Secretary's investigations pursuant to G.S. 110-105(a)(3)  
17 substantiate that child abuse or neglect did occur in the facility.  
18 The rules shall provide for types of sanctions which shall depend  
19 upon the severity of the incident and the probability of  
20 reoccurrence. The rules shall also provide for written warnings and  
21 special provisional licenses.
- 22 (7) (See editor's note) To develop and adopt voluntary enhanced  
23 program standards which reflect higher quality child care than the  
24 mandatory standards established by this Article. These enhanced  
25 program standards must address, at a minimum, staff/child ratios,  
26 staff qualifications, parent involvement, operational and personnel  
27 policies, developmentally appropriate curricula, and facility square  
28 footage.
- 29 (8) To develop a procedure by which the Department shall furnish  
30 those forms as may be required for implementation of this Article.
- 31 (9) Repealed by Session Laws 1985, c. 757, s. 156(66).
- 32 (10) To adopt rules for the issuance of a temporary license which shall  
33 expire in six months and which may be issued to the operator of a  
34 new center or to the operator of a previously licensed center when  
35 a change in ownership or location occurs.
- 36 (11) To adopt rules for child care facilities which provide care for  
37 children who are mildly sick.
- 38 (12) To adopt rules regulating the amount of time a child care  
39 administrator shall be on-site at a child care center.

40 ~~The Department of Health and Human Services, Division of Child Development~~  
41 ~~and the Child Care Commission shall not promote or require the utilization of~~  
42 ~~training materials, curriculum, or policy developed or provided by the National~~  
43 ~~Association for the Education of Young Children or the National Institute for Early~~  
44 ~~Childhood Professional Development. The Division and the Commission shall permit~~

1 individual facilities to make curriculum ~~decisions~~. decisions and may not require the  
2 standards, policies, or curriculum of any single accrediting child care organization. If  
3 Division inquiries to providers include database fields or questions regarding  
4 accreditation, the inquiry shall permit daycare providers to fill in any accrediting  
5 organization from which they have received accreditation."

6 Section 2. G.S. 110-91(8) reads as rewritten:

7 "(8) Qualifications for Staff. -- All child care center administrators shall  
8 be at least 21 years of age. All child care center administrators  
9 shall have the North Carolina Early Childhood Administration  
10 Credential or its equivalent as determined by the Department. All  
11 child care administrators performing administrative duties as of the  
12 date this act becomes law and child care administrators who  
13 assume administrative duties at any time after this act becomes law  
14 and until September 1, 1998, shall obtain the required credential  
15 by September 1, 2000. Child care administrators who assume  
16 administrative duties after September 1, 1998, shall begin working  
17 toward the completion of the North Carolina Early Childhood  
18 Administration Credential or its equivalent within six months after  
19 assuming administrative duties and shall complete the credential or  
20 its equivalent within two years after beginning work to complete  
21 the credential. Each child care center shall be under the direction  
22 or supervision of a person meeting these requirements. All staff  
23 counted toward meeting the required staff-child ratio shall be at  
24 least 16 years of age, provided that persons younger than 18 years  
25 of age work under the direct supervision of a credentialed staff  
26 person who is at least 21 years of age. All lead teachers in a child  
27 care center shall have at least a North Carolina Early Childhood  
28 Credential or its equivalent as determined by the Department.  
29 Lead teachers shall be enrolled in the North Carolina Early  
30 Childhood Credential coursework or its equivalent as determined  
31 by the Department within six months after becoming employed as  
32 a lead teacher or within six months after this act becomes law,  
33 whichever is later, and shall complete the credential or its  
34 equivalent within 18 months after enrollment.

35 For child care centers licensed to care for 200 or more children,  
36 the Department, in collaboration with the North Carolina Institute  
37 for Early Childhood Professional Development, shall establish  
38 categories to recognize the levels of education achieved by child  
39 care center administrators and teachers who perform  
40 administrative functions. The Department shall use these categories  
41 to establish appropriate staffing based on the size of the center and  
42 the individual staff responsibilities.

43 Effective January 1, 1998, an operator of a licensed family child  
44 care home shall be at least 21 years old and have a high school

1 diploma or its equivalent. Operators of a family child care home  
2 licensed prior to January 1, 1998, shall be at least 18 years of age  
3 and literate. Literate is defined as understanding licensing  
4 requirements and having the ability to communicate with the  
5 family and relevant emergency personnel. Any operator of a  
6 licensed family child care home shall be the person on-site  
7 providing child care.

8 No person shall be an operator of nor be employed in a child  
9 care facility who has been convicted of a crime involving child  
10 neglect, child abuse, or moral turpitude, or who is an habitually  
11 excessive user of alcohol or who illegally uses narcotic or other  
12 impairing drugs, or who is mentally or emotionally impaired to an  
13 extent that may be injurious to children.

14 The Commission shall adopt standards to establish appropriate  
15 qualifications for all ~~other~~ staff in child care centers. These  
16 standards shall reflect training, experience, education and  
17 credentialing and shall be appropriate for the size center and the  
18 level of individual staff responsibilities. It is the intent of this  
19 provision to guarantee that all children in child care are cared for  
20 by qualified people. No Pursuant to G.S. 110-106, no requirements  
21 may interfere with the teachings or doctrine of any established  
22 religious organization. The staff qualification requirements of this  
23 subdivision do not apply to religious-sponsored child care facilities  
24 pursuant to G.S. 110-106."

25 Section 3. G.S. 110-93 reads as rewritten:

26 "**§ 110-93. Application for a license.**

27 (a) Each person who seeks to operate a child care facility shall apply to the  
28 Department for a license. The application shall be in the form required by the  
29 Department. Each ~~operator~~ applicant seeking a license shall be responsible for  
30 supplying with the application the necessary supporting data and reports to show  
31 conformity with rules adopted by the Commission for Health Services pursuant to  
32 G.S. 110-91(1) and with the standards established or authorized by this Article,  
33 including any required reports from the local and district health departments, local  
34 building inspectors, local firemen, voluntary firemen, and others, on forms which  
35 shall be provided by the Department.

36 (b) If an ~~operator~~ applicant conforms to the rules adopted by the Commission for  
37 Health Services pursuant to G.S. 110-91(1) and with the standards established or  
38 authorized by this Article as shown in the application and other supporting data, the  
39 Secretary shall issue a license that shall remain valid until the Secretary notifies the  
40 licensee otherwise pursuant to G.S. 150B-3 or other provisions of this Article, subject  
41 to suspension or revocation for cause as provided in this Article. If the applicant fails  
42 to conform to the required rules and standards, the Secretary may issue a provisional  
43 license under the policies of the Commission. The Department shall notify the

1 ~~operator~~ applicant in writing by registered or certified mail the reasons the  
2 Department issued a provisional license.

3 (c) Repealed by Session Laws 1997-506, s. 10.

4 (d) Repealed by Session Laws 1977, c. 929, s. 1."

5 Section 4. G.S. 110-99(b) reads as rewritten:

6 "(b) A person who provides only drop-in or short-term child care as described in  
7 ~~G.S. 110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child care provided  
8 in churches, shall notify the Department that the person is providing only drop-in or  
9 short-term child care. Any person providing only drop-in or short-term child care as  
10 described in ~~G.S. 110-86(2)(d)~~ 110-86(2)(d), excluding drop-in or short-term child  
11 care provided in churches, shall display in a prominent place at all times a notice that  
12 the child care arrangement is not required to be licensed and regulated by the  
13 Department and is not licensed and regulated by the Department."

14 Section 5. Section 4(b) of S.L. 1997-506 is repealed.

15 Section 6. Chapter 110 of the General Statutes is amended by adding a  
16 new section to read:

17 "§ 110-88.1. Commission may not interfere with religious training offered in religious-  
18 sponsored child care facilities.

19 Nothing in this Article shall be interpreted to allow the State to determine the  
20 training or curriculum offered in any religious-sponsored child care facility as defined  
21 in G.S. 110-106(a)."

22 Section 7. This act is effective when it becomes law.



# HOUSE BILL 287: Child Care Law Corrections

## BILL ANALYSIS

**Committee:** Children, Youth & Families  
**Date:** May 19, 1999  
**Version:** Version 4

**Introduced by:** Representative Alexander  
**Summary by:** Jo B. McCants  
Committee Counsel

### **SUMMARY:** *This bill makes the following changes to current law:*

- 1) clarifies that the Commission also has the authority to require a building inspection when an initial license is requested in accordance with G.S. 110-91(4).*
- 2) requires all staff who will be counted towards meeting the staff-child ratio to be at least 16 years of age and to work under the direct supervision of a staff person who is at least 21; but makes it clear that the staff qualification requirements do not apply to religious sponsored child care facilities.*
- 3) exempts churches who provide drop-in or short-term child care from having to notify the Department of their existence and the requirement that a notice be posted within the facility stating that the facility is not licensed or regulated by the Department;*
- 4) repeals S.L. 1997-506(4b); hence removing the July 1, 1999 sunset on the provision concerning the use of enhanced program standards adopted by the Commission(see S.L. 1997-506 (4b), attached); and*
- 5) deletes the provision that does not allow DHHS, the Division of Child Development or the Commission to promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development BUT, retains the language that says, The Division and Commission shall permit individual facilities to make curriculum decisions. In addition, this bill provides that the Division may not require standards, policies or curriculum of any single accrediting child care organization*
- 6) makes it clear that the staff qualifications do not apply to religious sponsored schools; and*
- 7) clarifies the law by providing that the Commission may not determine the training or curriculum offered in any religious sponsored child care facilities.*

### **BILL ANALYSIS:**

**Section 1.** Section 1 clarifies current law to establish the Commission's authority to require a building inspection and a written report from a building inspection agency prior to the issuance of an initial license to any child care center. Section 1 also deletes the provision that does not allow DHHS, the Division of Child Development or the Commission to promote or utilizing materials provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development. **However, the language that provides that the Division and the Commission shall permit individual facilities to make curriculum decisions, remains in the bill.** In addition, Section 1 provides that the Division can not require the standards, policies, or curriculum of any single accrediting child care organization.

**Section 2.** A staff person who is at least 21 years of age must directly supervise a staff person who is at least 16 years of age, and who will be counted towards the staff-child ratio. Current law requires that a *credentialed* staff person who is at least 21 years of age supervise the staff person under 18. Section 2

# HOUSE BILL 287

Page 2

also provides that **the staff qualification requirements do not apply to religious sponsored child care facilities.**

**Section 3.** Section 3 only makes technical changes. The word "operator" is changed to "applicant."

**Section 4.** Section 4 amends current law to exclude churches that offer drop-in or short-term child care from the requirement of notifying the Department that they are providing such care. This section also exempts churches that offer drop-in and short-term child care from having to post a notice that the facility is not licensed or regulated by the Department.

**Section 5.** Section 5 repeals the provision that authorizes the Commission to develop and adopt voluntary enhanced program standards which reflect higher quality child care than the mandatory standards to expire on July 1, 1999.

**Section 6.** Section 6 adds a new provision that reiterates that the State cannot determine the training or curriculum offered in any religious sponsored school.

**Section 7.** This act becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 302  
Committee Substitute Favorable 4/22/99  
Third Edition Engrossed 4/27/99

Short Title: Enhance Child Support Enforce./AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD  
3 SUPPORT ENFORCEMENT.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17,  
6 reads as rewritten:  
7 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
8 paternity, the written acknowledgment of paternity executed by the putative father of  
9 the dependent child when accompanied by a written affirmation of paternity executed  
10 and sworn to by the mother of the dependent child shall constitute an admission of  
11 paternity, paternity and shall have the same legal effect as a judgment of paternity for  
12 the purpose of establishing a child support obligation, subject to the right of either  
13 signatory to rescind within the earlier of:  
14 (1) 60 days of the date the document is executed, or  
15 (2) The date of entry of an order establishing paternity or an order for  
16 the payment of child support.  
17 In order to rescind, a challenger must request the district court to order the  
18 recision and to include in the order specific findings of fact that the request for  
19 recision was filed with the clerk of court within 60 days of the signing of the  
20 document. The court must also find that all parties, including the child support  
21 enforcement agency, if appropriate, have been served in accordance with Rule 4 of  
22 the North Carolina Rules of Civil Procedure. In the event the court orders recision

1 and the putative father is thereafter found not to be the father of the child, then the  
2 clerk of court shall send a copy of the order of recision to the State Registrar of Vital  
3 Statistics. Upon receipt of an order of recision, the State Registrar shall remove the  
4 putative father's name from the birth certificate. In the event that the putative father  
5 defaults or fails to present or prosecute the issue of paternity, the trial court shall find  
6 the putative father to be the biological father as a matter of law.

7 After 60 days have elapsed, execution of the document may be challenged in court  
8 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of  
9 proof shall be on the challenging party, and the legal responsibilities, including child  
10 support obligations, of any signatory arising from the executed documents may not be  
11 suspended during the challenge except for good cause shown.

12 A written agreement to support the child by periodic payments, which may include  
13 provision for reimbursement for medical expenses incident to the pregnancy and the  
14 birth of the child, accrued maintenance and reasonable expense of prosecution of the  
15 paternity action, when acknowledged as provided herein, filed with, and approved by  
16 a judge of the district court at any time, shall have the same force and effect as an  
17 order of support entered by that court, and shall be enforceable and subject to  
18 modification in the same manner as is provided by law for orders of the court in such  
19 cases. The written affirmation shall contain the social security number of the person  
20 executing the affirmation, and the written acknowledgment shall contain the social  
21 security number of the person executing the acknowledgment. Voluntary agreements  
22 to support shall contain the social security number of each of the parties to the  
23 agreement. The written affirmations, acknowledgments and agreements to support  
24 shall be sworn to before a certifying officer or notary public or the equivalent or  
25 corresponding person of the state, territory, or foreign country where the affirmation,  
26 acknowledgment, or agreement is made, and shall be binding on the person executing  
27 the same whether the person is an adult or a minor. The child support enforcement  
28 agency shall ensure that the mother and putative father are given oral and written  
29 notice of the legal consequences and responsibilities arising from the signing of an  
30 acknowledgement of paternity, and of any alternatives to the execution of an  
31 acknowledgment or affirmation of paternity. The mother shall not be excused from  
32 making the affirmation on the grounds that it may tend to disgrace or incriminate  
33 her; nor shall she thereafter be prosecuted for any criminal act involved in the  
34 conception of the child as to whose paternity she makes affirmation."

35 Section 2. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17,  
36 reads as rewritten:

37 "(b) Upon finding that the individual has willfully failed to comply with the child  
38 support order or with a subpoena issued pursuant to child support proceedings, and  
39 that the obligor is at least 90 days in arrears, or upon a finding that an individual  
40 subject to a subpoena issued pursuant to child support or paternity establishment  
41 proceedings has failed to comply with the subpoena, the court may enter an order  
42 instituting the sanctions as provided in subsection (a) of this section. If an individual  
43 is adjudicated to be in civil or criminal contempt for a third or subsequent time for  
44 failure to comply with a child support order, the court shall enter an order instituting

1 any one or more of the sanctions, if applicable, as provided in subsection (a) of this  
2 section. The court may stay the effectiveness of the sanctions upon conditions  
3 requiring the obligor to make full payment of the delinquency over time. Any court-  
4 ordered payment plan under this subsection shall require the individual to extinguish  
5 the delinquency within a reasonable period of time. In determining the amount to be  
6 applied to the delinquency, the court shall consider the amount of the debt and the  
7 individual's financial ability to pay. The payment shall not exceed the limits under  
8 G.S. 110-136.6(b). The individual shall make an immediate initial payment  
9 representing at least five percent (5%) of the total delinquency or five hundred  
10 dollars (\$500.00), whichever is less. Any ~~such~~ stay of an order under this subsection  
11 shall also be conditioned upon the obligor's maintenance of current child support.  
12 The court may stay the effectiveness of the sanctions against an individual subject to a  
13 subpoena issued pursuant to child support or paternity establishment proceedings  
14 upon a finding that the individual has complied with or is no longer subject to the  
15 subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
16 individual shall surrender any licenses revoked by the court's order to the child  
17 support enforcement agency and the agency shall forward a report to the appropriate  
18 licensing authority within 30 days of the order."

19 Section 3. G.S. 50-13.4(c) reads as rewritten:

20 "(c) Payments ordered for the support of a minor child shall be in such amount as  
21 to meet the reasonable needs of the child for health, education, and maintenance,  
22 having due regard to the estates, earnings, conditions, accustomed standard of living  
23 of the child and the parties, the child care and homemaker contributions of each  
24 party, and other facts of the particular case. Payments ordered for the support of a  
25 minor child shall be on a monthly basis, due and payable on the first day of each  
26 month. The requirement that orders be established on a monthly basis does not  
27 affect the availability of garnishment of disposable earnings based on an obligor's pay  
28 period.

29 The court shall determine the amount of child support payments by applying the  
30 presumptive guidelines established pursuant to subsection (c1). However, upon  
31 request of any party, the Court shall hear evidence, and from the evidence, find the  
32 facts relating to the reasonable needs of the child for support and the relative ability  
33 of each parent to provide support. If, after considering the evidence, the Court finds  
34 by the greater weight of the evidence that the application of the guidelines would not  
35 meet or would exceed the reasonable needs of the child considering the relative  
36 ability of each parent to provide support or would be otherwise unjust or  
37 inappropriate the Court may vary from the guidelines. If the court orders an amount  
38 other than the amount determined by application of the presumptive guidelines, the  
39 court shall make findings of fact as to the criteria that justify varying from the  
40 guidelines and the basis for the amount ordered.

41 Payments ordered for the support of a child shall terminate when the child reaches  
42 the age of 18 except:

43 (1) If the child is otherwise emancipated, payments shall terminate at  
44 that time;

(2) If the child is still in primary or secondary school when the child reaches age 18, support payments shall continue until the child graduates, otherwise ceases to attend school on a regular basis, fails to make satisfactory academic progress towards graduation, or reaches age 20, whichever comes first, unless the court in its discretion orders that payments cease at age 18 or prior to high school graduation.

In the case of graduation, or attaining age 20, payments shall terminate without order by the court, subject to the right of the party receiving support to show, upon motion and with notice to the opposing party, that the child has not graduated or attained the age of 20."

Section 4. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17, reads as rewritten:

"(a) An income-withholding order issued in another state may be sent to the person or entity defined or identified as the obligor's employer under the income-withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as applicable, without first filing a petition or comparable pleading or registering the order with a tribunal of this State. In the event that an obligor is receiving unemployment compensation benefits from the North Carolina Employment Security Commission, in accordance with G.S. 96-17, an income-withholding order issued in another state may be sent to the Employment Security Commission without first filing a petition or comparable pleading or registering the order with a tribunal of this State. Upon receipt of the order, the employer or the Employment Security Commission shall:

- (1) Treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State;
- (2) Immediately provide a copy of the order to the obligor; and
- (3) Distribute the funds as directed in the withholding order. The Employment Security Commission shall not withhold an amount to exceed twenty-five percent (25%) of the unemployment compensation benefits."

Section 5. G.S. 110-136.2(f) reads as rewritten:

"(f) In the absence of a voluntary assignment of unemployment compensation benefits, the Department of Health and Human Services shall implement income withholding as provided in this Article for IV-D cases. The amount withheld shall not exceed twenty-five percent (25%) of the unemployment compensation benefits. Notice of the requirement to withhold shall be served upon the Employment Security Commission and payment shall be made by the Employment Security Commission directly to the Department of Health and Human Services pursuant to G.S. 96-17. 96-17 or to another state under G.S. 52C-5-501. Except for the requirement to withhold from unemployment compensation benefits and the forwarding of withheld funds to the Department of Health and Human ~~Services~~, Services or to another state under

1 G.S. 52C-5-501, the Employment Security Commission is exempt from the provisions  
2 of G.S. 110-136.8."

3 Section 6. The General Statutes are amended by adding a new section to  
4 read:

5 "§ 110-139.3. High-volume, automated administrative enforcement in interstate cases  
6 (AED).

7 Upon request of another state, the Department of Health and Human Services  
8 shall use automated data processing to search State databases and determine if  
9 information is available regarding a parent who owes a child support obligation and  
10 shall seize identified assets using the same techniques as used in intrastate cases. Any  
11 request by another state to enforce support orders shall certify the amount of each  
12 obligor's debt and that appropriate due process requirements have been met by the  
13 requesting state with respect to each obligor. The Department of Health and Human  
14 Services shall likewise transmit to other states requests for assistance in enforcing  
15 support orders through high-volume, automated administrative enforcement where  
16 appropriate."

17 Section 7. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17, reads  
18 as rewritten:

19 "§ 108A-69. Employer obligations.

20 (a) As used in this section and in G.S. 108A-70:

21 (1) 'Health benefit plan' means an accident and health insurance  
22 policy or certificate; a nonprofit hospital or medical service  
23 corporation contract; a health maintenance organization subscriber  
24 contract; a plan provided by a multiple employer welfare  
25 arrangement; the Teachers' and State Employees' Comprehensive  
26 Major Medical Plan under Chapter 135 of the General Statutes; or  
27 a plan provided by another benefit arrangement. 'Health benefit  
28 plan' does not mean a Medicare supplement policy as defined in  
29 G.S. 58-54-1(5).

30 (2) 'Health insurer' means any health insurance company subject to  
31 Articles 1 through 63 of Chapter 58 of the General Statutes,  
32 including a multiple employee welfare arrangement, and any  
33 corporation subject to Articles 65 and 67 of Chapter 58 of the  
34 General Statutes; ~~and means~~ a group health plan, as defined in  
35 Section 607(1) of the Employee Retirement Income Security Act of  
36 ~~1974.~~ 1974; and the Teachers' and State Employees'  
37 Comprehensive Major Medical Plan under Chapter 135 of the  
38 General Statutes.

39 (b) If a parent is required by a court or administrative order to provide health  
40 benefit plan coverage for a child, and the parent is eligible for family health benefit  
41 plan coverage through an ~~employer doing business in this State,~~ employer, the  
42 employer:

- (1) Must allow the parent to enroll, under family coverage, the child if the child would be otherwise eligible for coverage without regard to any enrollment season restrictions.
- (2) Must enroll the child under family coverage upon application of the child's other parent or upon receipt of notice from the Department of Health and Human Services in connection with its administration of the Medical Assistance or Child Support Enforcement Program if the parent is enrolled but fails to make application to obtain coverage for the child.
- (3) May not disenroll or eliminate coverage of the child unless:
  - a. The employer is provided satisfactory written evidence that:
    1. The court or administrative order is no longer in effect; or
    2. The child is or will be enrolled in comparable health benefit plan coverage that will take effect not later than the effective date of disenrollment; or
  - b. The employer has eliminated family health benefit plan coverage for all of its employees.
- (4) Must withhold from the employee's compensation the employee's share, if any, of premiums for health benefit plan coverage, not to exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as amended; and must pay this amount to the health insurer; subject to regulations, if any, adopted by the Secretary of the U.S. Department of Health and Human Services."

Section 8. G.S. 58-51-115(a) reads as rewritten:

"(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

- (1) 'Health benefit plan' means any accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes; or a plan provided by another benefit arrangement. 'Health benefit plan' does not mean a Medicare supplement policy as defined in G.S. 58-54-1(5).
- (2) 'Health insurer' means any health insurance company subject to Articles 1 through 63 of this Chapter, including a multiple employee welfare arrangement, and any corporation subject to Articles 65 and 67 of this Chapter; ~~and means~~ a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974. 1974; and the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes."

1 Section 9. G.S. 15A-1344.1(a) reads as rewritten:

2 "(a) When the court requires, as a condition of supervised or unsupervised  
3 probation, that a defendant support his children, the court may order at any time that  
4 support payments be made to the clerk of court for remittance to the party entitled to  
5 receive the payments. For child support orders initially entered on or after January  
6 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~  
7 apply. If child support is to be paid through income withholding, the payments shall  
8 be made in accordance with G.S. 110-139(f)."

9 Section 10. G.S. 50-13.9(b) reads as rewritten:

10 "(b) After entry of such an order by the court, the clerk of superior court shall  
11 transmit child support payments that are made to the clerk in IV-D cases to the  
12 Department of Health and Human Services for appropriate distribution. Pursuant to  
13 G.S. 110-139(f), amounts withheld by employers in IV-D and in non-IV-D cases shall  
14 be sent directly from the employer to the State Child Support Collection and  
15 Disbursement Unit for disbursement to the custodial parent or other party entitled to  
16 receive them, unless a court order requires otherwise. In all other cases, non-IV-D  
17 cases in which wage withholding is not in effect, the clerk shall transmit the payments  
18 to the custodial parent or other party entitled to receive them, unless a court order  
19 requires otherwise."

20 Section 11. G.S. 50-13.9(b2) reads as rewritten:

21 "(b2) In a non-IV-D case:

22 (1) The clerk of court shall have the responsibility and authority for  
23 monitoring the obligor's compliance with all child support orders  
24 in the case and for initiating any enforcement procedures that it  
25 considers appropriate. In non-IV-D cases subject to income  
26 withholding, the State Child Support Collection and Disbursement  
27 Unit shall notify the clerk of court of all payments made in non-  
28 IV-D income-withholding cases so that the clerk of court can  
29 initiate enforcement proceedings as provided in subsection (d) of  
30 this section.

31 (2) The clerk of court shall maintain all official records in the case.

32 (3) The clerk of court shall maintain any other records needed to  
33 monitor the obligor's compliance with or to enforce the child  
34 support orders in the case, including records showing the amount  
35 of each payment of child support received from or on behalf of the  
36 obligor, along with the dates on which each payment was  
37 received."

38 Section 11.1. G.S. 110-36.3 is amended by adding a new section to read:

39 "(d1) Employment Verifications. -- For the purpose of establishing or modifying a  
40 child support order, the amount of the obligor's gross income may be established by a  
41 written statement signed by the obligor's employer or the employer's designee or an  
42 Employee Verification form produced by the Automated Collections Tracking System  
43 that has been completed and signed by the obligor's employer or the employer's  
44 designee. A written statement signed by the employer of the obligor or the

1 employer's designee that sets forth an obligor's gross income, as well as, an Employee  
2 Verification form signed by the obligor's employer or the employer's designee shall  
3 be admissible evidence in any action establishing or modifying a child support order."

4 Section 12. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17  
5 and Section 7 of S.L. 1998-176, reads as rewritten:

6 "(b) Payor's responsibilities. A payor who has been properly served with a notice  
7 to withhold is required to:

- 8 (1) Withhold from the obligor's disposable income and, within 7  
9 business days of the date the obligor is paid, send to the ~~clerk of~~  
10 ~~superior court or State collection and disbursement unit,~~ Child  
11 Support Collection and Disbursement Unit, as specified in the  
12 notice, the amount specified in the notice and the date the amount  
13 was withheld, but in no event more than the amount allowed by  
14 G.S. 110-136.6; however, if a lesser amount of disposable income is  
15 available for any pay period, the payor shall either: (a) compute  
16 and send the appropriate amount to the ~~clerk of court,~~ State Child  
17 Support Collection and Disbursement Unit, using the percentages  
18 as provided in G.S. 110-136.6, or (b) request the initiating party to  
19 inform the payor of the proper amount to be withheld for that  
20 period;
- 21 (2) Continue withholding until further notice from the IV-D agency,  
22 the clerk of superior court, or the State collection and  
23 disbursement unit;
- 24 (3) Withhold for child support before withholding pursuant to any  
25 other legal process under State law against the same disposable  
26 income;
- 27 (4) Begin withholding from the first payment due the obligor in the  
28 first pay period that occurs 14 days following the date the notice of  
29 the obligation to withhold was served on the payor;
- 30 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior  
31 court or the State collection and disbursement unit in a non-IV-D  
32 case, in writing:
  - 33 a. If there are one or more orders of child support withholding  
34 for the obligor;
  - 35 a1. If there are one or more orders of alimony or postseparation  
36 support withholding for the obligor;
  - 37 b. When the obligor terminates employment or otherwise  
38 ceases to be entitled to disposable income from the payor,  
39 and provide the obligor's last known address, and the name  
40 and address of his new employer, if known;
  - 41 c. Of the payor's inability to comply with the withholding for  
42 any reason; and
- 43 (6) Cooperate fully with the initiating party in the verification of the  
44 amount of the obligor's disposable income."

1           Section 13. G.S. 110-136.8(d) reads as rewritten:

2       "(d) The payor may combine amounts withheld from obligors' disposable incomes  
3 in a single payment to ~~each clerk of superior court~~ the State Child Support  
4 Collection and Disbursement Unit if the payor separately identifies by name and case  
5 number the portion of the single payment attributable to each individual obligor and  
6 the date that each payment was withheld from the obligor's disposable income."

7           Section 14. G.S. 110-136.9 reads as rewritten:

8       "**§ 110-136.9. Payment of withheld funds.**

9       In IV-D ~~cases~~, cases and in non-IV-D cases in which the support order was initially  
10 issued in this State on or after January 1, 1994, and in which the income of the  
11 noncustodial parent is subject to income withholding, when required by federal or  
12 State law or regulations or by court order, the ~~clerk of superior court~~ State Child  
13 Support Collection and Disbursement Unit shall ~~transmit~~ distribute payments  
14 received from ~~payors to the Department of Health and Human Services for~~  
15 ~~appropriate distribution.~~ payors. In all other cases, unless a court order requires  
16 otherwise, the clerk of superior court shall transmit the payments to the custodial  
17 parent."

18           Section 15. This act becomes effective October 1, 1999. The mandatory  
19 sanctions under G.S. 110-142.2(b), as amended by Section 2 of this act, apply when  
20 an obligor is adjudicated to be in civil or criminal contempt for a third or subsequent  
21 time after this act becomes effective.



BILL ANALYSIS

HOUSE BILL 302:  
Enhance Child Support Enforcement/AB

Committee: Children & Human Resources  
Date: May 19, 1999  
Version: H302-PCSSE-001

Introduced by: Rep. Culpepper  
Summary by: Jo B. McCants  
Committee Co-Counsel

**SUMMARY:** *The proposed committee substitute to House Bill 302 has three (3) parts. Part I and Part II of the bill are practically identical. However, Part I and Part II differ with respect to the types of child support payments that must be forwarded to the State Child Support Collection and Disbursement Unit. Under Part I child support payments submitted through income withholding in IV-D cases and non-IV-D cases initiated on or after January 1, 1994, must be forwarded to the State Child Support Collection and Disbursement Unit (Unit). Part II requires child support payments in cases that were initiated prior to January 1, 1994 to also be forwarded to the State Child Support Collection and Disbursement Unit rather than to the clerk of superior court. Several conforming statutory changes were also made in Part II to address the issue of child support payments being sent to the Unit rather than to the clerk of superior court. Part III provides that if the General Assembly appropriates funds to the Department of Health and Human Services for the administrative cost of receiving and disbursing non-IV-D cases initiated prior to January 1, 1999, Part II becomes effective October 1, 1999. If there is not an appropriation made to cover the expense of the additional cases, Part I becomes effective on that date. Both Part I and Part II make the following changes to current law:*

- 1) Provides that a written acknowledgment of paternity executed by the father accompanied by a written affirmation of paternity sworn to by the mother has the same legal effect as a court's judgment of paternity.*
- 2) Requires the court to revoke a noncustodial parent's drivers license or recreational license, or direct DMV to prevent the noncustodial parent from registering a vehicle if the noncustodial parent has been held in contempt on 3 or more occasions for failure to comply with a child support order.*
- 3) Requires a noncustodial parent who has failed to pay support to make an immediate initial payment of 5% of the total delinquency or \$500, whichever is less to stay a license revocation.*
- 4) Requires that all payments ordered for the support of a minor be paid once per month.*
- 5) Allows the ESC to automatically withhold a maximum of 25% of a noncustodial parent's unemployment compensation benefits when the agency receives an income withholding order from an out-of-state court.*
- 6) Creates a new enforcement mechanism (Administrative Enforcement in Interstate Cases) that would allow child support enforcement (CSE) to locate and secure assets owned by a noncustodial parent that are located outside of the state when the parent is delinquent in making support payments.*

*7) Makes it clear that employers must enroll the child of a noncustodial parent in the NC State Employees' Comprehensive Major Medical Plan when the support order includes medical coverage.*

*8) Requires child support payments submitted through income withholding in IV-D cases and non-IV-D cases initiated on or after 1/1/94 to be forwarded to the State Child Support Collection and Disbursement Unit. The Unit will distribute the child support payments. The Unit will also notify the clerk of court of all payments received in non-IV-D cases subject to income withholding. (Note: Part II includes cases initiated prior to 1/1/94.)*

*9) Allows a written statement signed by a noncustodial parent's employer or an Employee Verification form to be admitted into evidence for the purpose of determining a noncustodial parent's gross income when establishing or modifying a child support order.*

**BILL ANALYSIS:** PART I (Part II essentially restates Part I with the exception of the receipt and disbursement of child support payments in cases initiated prior to 1/1/94 and conforming changes.)

**Section 1:** Section 1 amends current law to provide that a written acknowledgement of paternity executed by a putative father, accompanied by a written affirmation of paternity sworn to by the mother of the child has the same legal effect as a judgement of paternity for the purpose of establishing a child support obligation, subject to the right of rescission by either party. Federal Welfare Reform legislation requires all States to enact procedures that would allow a signed voluntary acknowledgment of paternity to be a legal finding of paternity subject to a right of rescission. Under our current law, the signed acknowledgment constitutes only an admission of paternity.

**Section 2.** Section 2 amends current law to make it mandatory that the court impose one or more of the sanctions available when a noncustodial parent has been held in contempt for failure to pay child support on three or more occasions. The sanctions available include the revocation of the parent's drivers license or recreational licenses. In addition, DMV can be instructed not to allow the parent to register a vehicle because of the parent's delinquency. In addition, this section requires that any delinquency be paid in full within a reasonable period of time with an immediate initial payment of 5% of the delinquency or \$500, whichever is less. Under current law, the court has the discretion to decide whether to impose any of the available sanctions when a noncustodial parent is found in contempt for failure to pay support.

**Section 3.** Section 3 amends current law to require all new and modified child support orders to require support to be paid once per month, due and payable on the first day of each month. Under current law, courts may order a noncustodial parent to pay support weekly, bi-weekly, or monthly.

**Sections 4 and 5.** Sections 4 and 5 would allow the Employment Security Commission (ESC), upon receiving a certified child support order from another state, to withhold a maximum of 25% of a noncustodial parent's unemployment benefits. The money withheld by ESC would be sent to the appropriate out-of-state child support enforcement agency for disbursement. Under current law, the out-of-state order must be registered in North Carolina before a child support claim can be made against unemployment benefits.

**Section 6.** Section 6 adds a new statutory provision that would enable CSE to locate and secure assets owned by a parent that are located outside of the State when the parent is delinquent in paying child

support. This provision has been added in response to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which requires states to create a new child support enforcement mechanism entitled Administrative Enforcement in Interstate Cases.

**Sections 7 and 8.** Sections 7 and 8 amend current law to include the NC State Employees' Comprehensive Major Medical Plan (State Health Plan) as a health plan that CSE may enroll a child of a noncustodial parent when the child support order requires the noncustodial parent to provide medical insurance for the child or children receiving support. Under current law, the State Health Plan is not listed as a plan that an employer must enroll the children of the noncustodial parent who is required to provide medical support. However, the current practice has been for all state personnel agencies to cooperate with CSE by enrolling all eligible children.

**Sections 9 through 15.** Sections 9 through 15 amend current law with regard to the establishment of a support obligation, the receipt, and disbursement of child support payments. These sections provide that child support payments submitted through income withholding shall be forwarded to the Child Support Collection and Disbursement Unit. The Unit will be required to disburse all support payments received. In addition, when establishing or modifying a child support order, a written signed statement or employee verification signed by a noncustodial parent is admissible evidence to establish the noncustodial parent's gross income. Under current law, the clerk of superior court in each county receives child support payments made through income withholding.\*

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date 5-19

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Lamarr Long	Easter Seals - Partners in Policymaking
Joe Williams	" " " "
Chuck Summers	NC Equity
Soreen Schmidt	NC Justice Center
Paula A. Wolf	Covenant w/NC's Children
Pam Seaman	NC Social Services Consortium
George Reed	NC Council of Churches
Ann L. Edwards	NC Christian Science for Pub
Maria Duenas	Easter Seals Partners in Policymaking
Annette Robinson	" " " "
Chris Marks	AOC

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date \_\_\_\_\_

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Tommy Higgins	Clerk of Court - Cumberland Co.
Pamela Best	SOC - Legal Counsel
Debra Ball	DCD-DHHS
Barbara Farmer	DCD-DHHS
S. Telling	Media Center
Skansme	DSS
JoAnn Lamm	DSS/DHHS
Esther High	DSS/DHHS
Suzanne Hadden	Carter Seals
Dee Moore	MPCC of DHEC
David Naughton	CSE/DHHS

# VISITOR REGISTRATION SHEET

Name of Committee Children & Human Resources

Date \_\_\_\_\_

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

<i>Elizabeth Harris</i>	<i>Child Support</i>
<i>Bernie Miller</i>	<i>" " DSS</i>
<i>Harold F. Rubin</i>	<i>DOJ</i>
<i>John Kutz</i>	<i>NCFRC</i>
<i>Carole Payne</i>	<i>Governor's Office</i>
<i>Michael Tertz</i>	<i>DSS - CS</i>
<i>John Taylor</i>	<i>Cirumantis</i>
<i>John Kennedy</i>	<i>CSC - Wake</i>
<i>Glenn Bonds</i>	<i>AOC</i>
<i>Charles F. Wilson</i>	<i>North Carolina Medical Society</i>

# **Agenda**

## **SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**May 26, 1999**

**11:00 AM**

**Call to Order**

<b>HB262</b>	<b>Enhance Child Welfare Services/AB. Representative Culpepper</b>
<b>HB302</b>	<b>Enhance Child Support Enforce/AB. Representative Culpepper</b>
<b>HB255</b>	<b>Vocational Rehabilitation Changes/AB. Representative Alexander</b>
<b>HB1071</b>	<b>Handicapped Law Changes Representative Alexander</b>

### **Pages:**

**Crystal Clark, Boon N. C. Sponsor Senator Fox**  
**Jason Watson, Butner N. C. Sponsor Senator Basnight**

<b>Sergeants at Arms:</b>	<b>Mary Perry</b>
	<b>Ronald Spann</b>
	<b>Michael Houser</b>

**Next Meeting**  
**To Be Announced**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, May 26, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, May 26, 1999 in room 544 of the State Legislative Office Building.

Thirteen (13) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and sergeants-at-arms.

Representative Alexander the bill sponsor was introduced to explain HB1071 entitled Handicapped Law Changes. Senator Moore after some discussion moved for a favorable report. The motion carried unanimously.

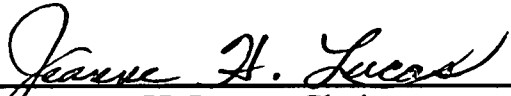
Representative Alexander then explained another bill HB255 entitled Vocational Rehabilitation Changes/AB. Senator Purcell after some discussion moved for a favorable report. The motion carried unanimously.


Representative Culpepper was introduced to continue to explain his bill HB302 entitled Enhance Child support Enforce/AB. After some discussion of the bill Senator Martin moved that the bill be reported out as unfavorable as to committee substitute bill number 1, but favorable as to senate committee substitute bill, the motion carried. This bill is then to be referred to appropriations

Representative Culpepper the bill sponsor then explained another bill HB262 entitled Enhance Child Welfare Services/AB. Senator Dannelly had an amendment and moved its adoption. The motion carried. After some discussion Senator Wellons moved for a favorable report. The motion carried.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

**REVISED**

Wednesday, May 26, 1999

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

**FAVORABLE**

H.B.	<b>255</b>	Vocational Rehabilitation Changes/AB.
		Sequential Referral: None
		Recommended Referral: None

H.B(CS)1071	Handicapped Law Changes.
	Sequential Referral: None
	Recommended Referral: None

**TOTAL REPORTED: 2**

Committee Clerk Comment: None

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Tuesday, June 01, 1999

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

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,  
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)**302**

Enhance Child Support Enforce./AB.

Draft Number:	PCS6214
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**CHILDREN AND HUMAN RESOURCES COMMITTEE REPORT  
Senator Jeanne Lucas, Chair**

Wednesday, May 26, 1999

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

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL**

H.B.	<b>262</b>	Enhance Child Welfare Services/AB.
		Draft Number: PCS3429
		Sequential Referral: None
		Recommended Referral: None
		Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1071\*  
Committee Substitute Favorable 4/27/99

Short Title: Handicapped Law Changes.

(Public)

Sponsors:

Referred to:

April 15, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE HANDICAPPED PERSONS  
3 PROTECTION ACT, CHAPTER 168A OF THE GENERAL STATUTES.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Chapter 168A of the General Statutes reads as rewritten:  
6 "Chapter 168A.  
7 "~~Handicapped~~ Persons With Disabilities Protection Act.  
8 "§ 168A-1. Title.  
9 This Chapter may be cited as the North Carolina ~~Handicapped~~ Persons With  
10 Disabilities Protection Act.  
11 "§ 168A-2. Statement of purpose.  
12 (a) The purpose of this Chapter is to encourage and enable all ~~handicapped people~~  
13 persons with disabilities to participate fully to the maximum extent of their abilities in  
14 the social and economic life of the State, to engage in remunerative employment, to  
15 use available public accommodations and public services, and to otherwise pursue  
16 their rights and privileges as inhabitants of this State.  
17 (b) The General Assembly finds that: the practice of discrimination based upon a  
18 ~~handicapping~~ disabling condition is contrary to the public interest and to the  
19 principles of freedom and equality of opportunity; the practice of discrimination on  
20 the basis of a ~~handicapping~~ disabling condition threatens the rights and proper  
21 privileges of the inhabitants of this State; and such discrimination results in a failure  
22 to realize the productive capacity of individuals to their fullest extent.  
23 "§ 168A-3. Definitions.

As used in this Chapter, unless the context otherwise requires, the term ~~requires~~ requires:

- (1) "Discriminatory practice" means any practice prohibited by this Chapter.
- (2) "Employer" means any person employing 15 or more full-time employees within the State, but excluding a person whose only employees are hired to work as domestic or farm workers at that person's home or farm.
- (3) "Employment agency" means a person regularly undertaking with or without compensation to procure for employees opportunities to work for an employer and includes an agent of such a person.
- (4) ~~"Handicapped person"~~ "Person with a disability" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. As used in this subdivision, the term:
  - a. "Physical or mental impairment" means (i) any physiological disorder or abnormal condition, cosmetic disfigurement, or anatomical loss, caused by bodily injury, birth defect or illness, affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental disorder, such as mental retardation, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities, but (iii) excludes (A) sexual preferences; (B) active alcoholism or drug addiction or abuse; and (C) any disorder, condition or disfigurement which is temporary in nature leaving no residual impairment.
  - b. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, ~~and learning.~~ learning, and working.
  - c. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.
  - d. "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities because of the attitudes of others; or (iii) has none of the impairments defined in paragraph a. of this subdivision but is treated as having such an impairment.

- 1 (5) ~~"Handicapping~~ "Disabling condition" means any condition or  
2 characteristic that renders a person a ~~handicapped person~~ person  
3 with a disability.
- 4 (6) "Labor organization" means an organization of any kind, an  
5 agency or employee representation committee, a group association,  
6 or a plan, in which employees participate and which exists for the  
7 purpose, in whole or in part, of dealing with employers concerning  
8 grievances, labor disputes, wages, rates of pay, hours, or other  
9 terms or conditions of employment.
- 10 (7) "Person" includes any individual, partnership, association,  
11 corporation, labor organization, legal representative, trustee,  
12 receiver, and the State and its departments, agencies, and political  
13 subdivisions.
- 14 (8) "Place of public accommodations" includes, but is not limited to,  
15 any place, facility, store, other establishment, hotel, or motel,  
16 which supplies goods or services on the premises to the public or  
17 which solicits or accepts the patronage or trade of any person.
- 18 (9) ~~"Qualified handicapped person"~~ "person with a disability" means:  
19 a. With regard to employment, a ~~handicapped~~ person with a  
20 disability who can satisfactorily perform the duties of the job  
21 in question, with or without reasonable accommodation, (i)  
22 provided that the ~~handicapped~~ person with a disability shall  
23 not be held to standards of performance different from other  
24 employees similarly employed, and (ii) further provided that  
25 the ~~handicapping~~ disabling condition does not create an  
26 unreasonable risk to the safety or health of the ~~handicapped~~  
27 ~~person~~, person with a disability, other employees, the  
28 employer's customers, or the public;
- 29 b. With regard to places of public accommodation a  
30 ~~handicapped~~ person with a disability who can benefit from  
31 the goods or services provided by the place of public  
32 accommodation; and
- 33 c. With regard to public services and public transportation a  
34 ~~handicapped~~ person with a disability who meets  
35 prerequisites for participation that are uniformly applied to  
36 all participants, such as income or residence, and that do not  
37 have the effect of discriminating against the ~~handicapped~~  
38 persons with a disability.
- 39 (10) "Reasonable accommodations" means:  
40 a. With regard to employment, making reasonable physical changes in  
41 the workplace, including, but not limited to, making facilities  
42 accessible, modifying equipment and providing mechanical aids to  
43 assist in operating equipment, or making reasonable changes in the  
44 duties of the job in question that would accommodate the known

1 ~~handicapping~~ disabling conditions of the ~~handicapped~~ person with  
2 a disability seeking the job in question by enabling him or her to  
3 satisfactorily perform the duties of that job; provided that  
4 "reasonable accommodation" does not require that an employer:

- 5 1. Hire one or more employees, other than the  
6 ~~handicapped person, person with a disability~~, for the  
7 purpose, in whole or in part, of enabling the  
8 ~~handicapped~~ person with a disability to be employed;  
9 or
- 10 2. Reassign duties of the job in question to other  
11 employees without assigning to the ~~handicapped~~  
12 employee with a disability duties that would  
13 compensate for those reassigned; or
- 14 3. Reassign duties of the job in question to one or more  
15 other employees where such reassignment would  
16 increase the skill, effort or responsibility required of  
17 such other employee or employees from that required  
18 prior to the change in duties; or
- 19 4. Alter, modify, change or deviate from bona fide  
20 seniority policies or practices; or
- 21 5. Provide accommodations of a personal nature,  
22 including, but not limited to, eyeglasses, hearing aids,  
23 or prostheses, except under the same terms and  
24 conditions as such items are provided to the  
25 employer's employees generally; or
- 26 6. Make physical changes to accommodate a  
27 ~~handicapped~~ person with a disability where:
  - 28 I. For a new employee the cost of such changes  
29 would exceed five percent (5%) of the annual  
30 salary or annualized hourly wage for the job in  
31 question; or
  - 32 II. For an existing employee the cost of the  
33 changes would bring the total cost of physical  
34 changes made to accommodate the employee's  
35 ~~handicapping~~ disabling conditions since the  
36 beginning of the employee's employment with  
37 the employer to greater than five percent (5%)  
38 of the employee's current salary or current  
39 annualized hourly wage; or
- 40 7. Make any changes that would impose on the  
41 employer an undue hardship, provided that the costs  
42 of less than five percent (5%) of an employee's salary  
43 or annualized wage as determined in subsection (6)

above shall be presumed not to be an undue hardship.

- b. With regard to a place of public accommodations, making reasonable efforts to accommodate the ~~handicapping~~ disabling conditions of a ~~handicapped person~~, person with a disability, including, but not limited to, making facilities accessible to and usable by ~~handicapped persons~~, persons with a disability, redesigning equipment, provide mechanical aids or other assistance, or using alternative accessible locations, provided that reasonable accommodations does not require efforts which would impose an undue hardship on the entity involved.

**"§ 168A-4. Reasonable accommodation duties.**

(a) A qualified ~~handicapped~~ person with a disability requesting a reasonable accommodation must apprise the employer, employment agency, labor organization, or place of public accommodation of his or her ~~handicapping~~ disabling condition, submit any necessary medical documentation, make suggestions for such possible accommodations as are known to such ~~handicapped person~~, person with a disability, and cooperate in any ensuing discussion and evaluation aimed at determining possible or feasible accommodations.

(b) Once a qualified ~~handicapped~~ person with a disability has requested an accommodation, or if a potential accommodation is obvious in the circumstances, an employer, employment agency, labor organization or place of public accommodation shall investigate whether there are reasonable accommodations that can be made and make reasonable accommodations as defined in G.S. 1 68A-3(10).

**"§ 168A-5. Discrimination in employment; exemptions.**

(a) Discriminatory practices. -- It is a discriminatory practice for:

- (1) An employer to fail to hire or consider for employment or promotion, to discharge, or otherwise to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition with respect to compensation or the terms, conditions, or privileges of employment;
- (2) An employment agency to fail or refuse to refer for employment, or otherwise to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition;
- (3) A person controlling an apprenticeship, on-the-job, or other training or retraining program, to discriminate against a qualified ~~handicapped~~ person with a disability on the basis of a ~~handicapping~~ disabling condition in admission to, or employment in, a program established to provide apprenticeship or other training; or
- (4) An employer or employment agency to require an applicant to identify himself as ~~handicapped~~ a person with a disability prior to

1 a conditional offer of employment; however, any employer may  
2 invite an applicant to identify himself as ~~handicapped a person~~  
3 with a disability in order to act affirmatively on his ~~behalf~~ behalf;  
4 or

5 (5) An employer, labor organization, or employment agency to fail to  
6 meet the duties imposed on them by G.S. 168A-4(b).

7 (b) Exemptions. -- It is not a discriminatory action for an employer, employment  
8 agency, or labor organization:

9 (1) To make an employment decision on the basis of State and federal  
10 laws or regulations imposing physical, health, mental or  
11 psychological job requirements;

12 (2) To fail to hire, transfer or promote, or to discharge a ~~handicapped~~  
13 person with a disability who has a history of drug abuse or who is  
14 unlawfully using drugs where the job in question is in an  
15 establishment that manufactures, distributes, dispenses, conducts  
16 research, stores, sells or otherwise handles controlled substances  
17 regulated by the North Carolina Controlled Substances Act, G.S.  
18 90-86 et seq.;

19 (3) To fail to hire, transfer, or promote, or to discharge a ~~handicapped~~  
20 person with a disability because the person has a communicable  
21 disease which would disqualify a ~~non-handicapped~~ person without  
22 a disability from similar employment;

23 (4) To fail to make reasonable accommodations where the  
24 ~~handicapped~~ person with a disability has not fulfilled the duties  
25 imposed by G.S. 168A-4;

26 (5) To inquire whether a person has the ability to perform the duties  
27 of the job in question;

28 (6) To require or request a person to undergo a medical examination,  
29 which may include a medical history, for the purpose of  
30 determining the person's ability or capacity to safely and  
31 satisfactorily perform the duties of available jobs for which the  
32 person is otherwise qualified, or to aid in determining possible  
33 accommodations for a ~~handicapping~~ disabling condition, provided  
34 (i) that an offer of employment has been made on the condition  
35 that the person meets the physical and mental requirements of the  
36 job with or without reasonable accommodation; and (ii) that the  
37 examination, unless limited to determining the extent to which a  
38 person's ~~handicapping~~ disabling condition would interfere with his  
39 or her ability or capacity to safely and satisfactorily perform the  
40 duties of the the job in question or the possible accommodations  
41 for a ~~handicapping~~ disabling condition, is required of all persons  
42 conditionally offered employment for the same position regardless  
43 of ~~handicapping~~ disabling condition;

- 1 (7) To obtain medical information or to require or request a medical  
2 examination where such information or examination is for the  
3 purpose of establishing an employee health record;
- 4 (8) To administer pre-employment tests, provided that the tests (i)  
5 measure only job-related abilities, (ii) are required of all applicants  
6 for the same position unless such tests are limited to determining  
7 the extent to which the person's ~~handicapping~~ disabling condition  
8 would interfere with his or her ability to safely and satisfactorily  
9 perform the duties of the job in question or the possible  
10 accommodations for the job in question, and (iii) accurately  
11 measure the applicant's aptitude, achievement level, or whatever  
12 factors they purport to measure rather than reflecting the  
13 ~~handicapped person's~~ impaired sensory, manual or speaking skills  
14 of a person with a disability except when those skills are  
15 requirements of the job in question, provided that an employer  
16 shall not be liable for improper testing which was administered by  
17 a State agency acting as an employment agency.

18 **"§ 168A-6. Discrimination in public accommodations.**

19 It is a discriminatory practice for a person to deny a qualified ~~handicapped~~ person  
20 with a disability the full and equal enjoyment of the goods, services, facilities,  
21 privileges, advantages, and accommodations of a place of public accommodation on  
22 the basis of a ~~handicapping~~ disabling condition. In the area of structural  
23 modifications, this section may be satisfied by compliance with the North Carolina  
24 Building Code.

25 **"§ 168A-7. Discrimination in public service.**

26 It is a discriminatory practice for a State department, institution, or agency, or any  
27 political subdivision of the State or any person that contracts with the above for the  
28 delivery of public services including but not limited to education, health, social  
29 services, recreation, and rehabilitation, to refuse to provide reasonable aids and  
30 adaptations necessary for a known qualified ~~handicapped~~ person with a disability to  
31 use or benefit from existing public services operated by such entity; provided that the  
32 aids and adaptations do not impose an undue hardship on the entity involved.

33 **"§ 168A-8. Discrimination in public transportation.**

34 It is a discriminatory practice for any transportation system providing  
35 transportation to the general public to fail to ensure access to and the benefits of  
36 public transportation to a qualified ~~handicapped person;~~ person with a disability;  
37 however, public transportation systems may use alternative methods to provide  
38 transportation for ~~handicapped persons;~~ persons with a disability, as long as  
39 ~~handicapped~~ persons with a disability are offered transportation that, in relation to  
40 the transportation offered to other persons, is:

- 41 (1) In a similar geographic area of operation;  
42 (2) For fares not greater in price;  
43 (3) With similar or no restrictions as to trip purpose;  
44 (4) With reasonable response time; and

(5) With similar hours of operations.

Nothing in this section shall apply to privately owned, local transit or transportation systems existing on October 1, 1985, or to interstate air carriers complying with federal regulations promulgated by the Civil Aeronautics Board and administered by the United States Department of Transportation.

**"§ 168A-9. Affirmative defenses.**

Any employer may assert affirmative defenses in any action brought under this Chapter. This section shall not create any inference that an employment action which is not listed as an affirmative defense is therefore, by implication, a discriminatory practice, so long as the employment action is not otherwise prohibited by this Chapter. The following is a non-exclusive list of affirmative defenses:

(1) The ~~qualified handicapped person's~~ failure of the qualified person with a disability to comply with or meet the employer's work rules and policies or performance standards, provided that such person is not held to rules or standards different from other ~~non-handicapped~~ employees without a disability similarly employed;

(2) The ~~qualified handicapped person's~~ excessive, willful or habitual tardiness or ~~absence~~, absence of a qualified person with a disability, provided that the standard used by the employer in determining whether such tardiness or absence is excessive is the same as that applied by the employer to ~~non-handicapped~~ employees without a disability similarly employed; or

(3) A bona fide seniority or merit system, or a system which measures earnings by quantity or quality of work or production, or differences in location of employment.

**"§ 168A-10. Retaliation prohibited.**

No employer shall discharge, expel, refuse to hire, or otherwise discriminate against any person or applicant for employment, nor shall any employment agency discriminate against any person, nor shall a labor organization discriminate against any member or applicant for membership because such person has opposed any practice made a discriminatory practice by this Chapter or because he has testified, assisted or participated in any manner in proceedings under this Chapter.

**"§ 168A-11. Civil action.**

(a) A ~~handicapped~~ person with a disability aggrieved by a discriminatory practice prohibited by G.S. 168A-5 through 168A-8, or a person aggrieved by conduct prohibited by G.S. 168A-10, may bring a civil action to enforce rights granted or protected by this Chapter against any person described in G.S. 168A-5 through 168A-8 or in G.S. 168A-10 who is alleged to have committed such practices or engaged in such conduct. The action shall be commenced in superior court in the county where the alleged discriminatory practice or prohibited conduct occurred or where the plaintiff or defendant resides. Such action shall be tried to the court without a jury.

1 (b) Any relief granted by the court shall be limited to declaratory and injunctive  
2 relief, including orders to hire or reinstate an aggrieved person or admit such person  
3 to a labor organization. In a civil action brought to enforce provisions of this Chapter  
4 relating to employment, the court may award back pay. Any such back pay liability  
5 shall not accrue from a date more than two years prior to the filing of an action  
6 under this Chapter. Interim earnings or amounts earnable with reasonable diligence  
7 by the aggrieved person shall operate to reduce the back pay otherwise allowable.

8 (c) No court shall have jurisdiction over an action filed under this Chapter where  
9 the plaintiff has commenced federal judicial or administrative proceedings under  
10 Section 503 or Section 504 of the Vocational Rehabilitation Act of 1973, 29 U.S.C.  
11 §§ 793 and 794, as amended, or federal regulations promulgated ~~thereunder~~, under  
12 those sections; or under the Americans with Disabilities Act of 1990, 42 U.S.C. §  
13 12101, et seq., as amended, or federal regulations promulgated under that Act,  
14 involving or arising out of the facts and circumstances involved in the alleged  
15 discriminatory practice under this Chapter. If such proceedings are commenced after  
16 a civil action has been commenced under this Chapter, the State court's jurisdiction  
17 over the civil action shall end and the action shall be forthwith dismissed.

18 (d) In any civil action brought under this Chapter, the court, in its discretion, may  
19 award reasonable attorney's fees to the substantially prevailing party as part of costs.

20 "§ 168A-12. Statute of limitations.

21 A civil action regarding employment discrimination brought pursuant to this  
22 Chapter shall be commenced within 180 days after the date on which the aggrieved  
23 person became aware of or, with reasonable diligence, should have become aware of  
24 the alleged discriminatory practice or prohibited conduct. A civil action brought  
25 pursuant to this Chapter regarding any other complaint of discrimination shall be  
26 commenced within two years after the date on which the aggrieved person became  
27 aware of or, with reasonable diligence, should have become aware of the alleged  
28 discriminatory practice or prohibited conduct."

29 Section 2. This act becomes effective October 1, 1999, and applies to  
30 actions filed on or after that date.



## HOUSE BILL 1071: HANDICAPPED LAW CHANGES

### BILL ANALYSIS

**Committee:** Children & Human Resources  
**Date:** May 26, 1999  
**Version:** 2

**Introduced by:** Rep. Alexander  
**Summary by:** Jo B. McCants  
Committee Counsel

**SUMMARY:** *This bill is a recommendation of the Governor's Advocacy Council for Persons with Disabilities. The bill makes several changes as a result of the Americans with Disabilities Act. The bill removes the word "handicapped" throughout the relevant statutes and substitutes the phrase "persons with a disability." The bill also makes the following changes to current law:*

- 1) Modifies the definition of "major life activities" to include working.*
- 2) Does not allow a state court to have jurisdiction over a case filed under Chapter 168A when a person has filed an action under the Americans with Disabilities Act.*
- 3) Increases the statute of limitations for civil actions filed under Chapter 168A, which do not involve employment discrimination to 2 years.*

### BILL ANALYSIS:

The word "**work**" is added to the meaning of "major life activities" in accordance with the Americans with Disabilities Act. Current law defines "major life activities" as functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning.

State courts will not have subject matter jurisdiction over cases that involve a violation of Chapter 168A (Persons with Disabilities Protection Act), when a federal action has been filed under the Americans with Disabilities Act. Current law does not allow state courts to have jurisdiction over cases involving a violation of Chapter 168A when any federal judicial or administrative proceedings are filed under specific sections of the Vocational Rehabilitation Act of 1973 or other specific federal regulations.

This bill would allow a person to bring a civil action under the state's Persons with Disabilities Protection Act regarding a complaint of discrimination that does not allege employment discrimination within 2 years after the date the aggrieved person became aware of, or with reasonable diligence, should have become aware of the alleged discrimination. Civil actions that allege employment discrimination must be commenced within 180 days of the date on which the aggrieved person became aware of, or with reasonable diligence, should have become aware of the alleged discriminatory practice or prohibited conduct. Current law requires that **all** civil actions brought under the state's Persons with Disabilities Protection Act must be commenced within 180 days.

This act becomes effective on October 1, 1999, and applies to actions filed on or after that date.

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 934 Handicapped Law Changes

**SHORT TITLE:** Handicapped Law Changes

**SPONSOR(S):** Senator Charles Carter

*HB 1071  
companion*

**FISCAL IMPACT**

**Yes ( )      No (X)      No Estimate Available ( )**

**FY 1999-00   FY 2000-01   FY 2001-02   FY 2002-03   FY 2003-04**

**REVENUES**

**EXPENDITURES**      NONE

**POSITIONS:**

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Health and Human Services; Judicial Branch; all state agencies

**EFFECTIVE DATE:** October 1, 1999

**BILL SUMMARY: S 934. HANDICAPPED LAW CHANGES. TO MAKE CHANGES TO THE HANDICAPPED PERSONS PROTECTION ACT, CHAPTER 168A OF THE GENERAL STATUTES.** Changes "handicapped" and related phraseology to "disabled" or similar phraseology throughout GS Ch. 168A. Adds "working" to the list of activities defined as "major life activities." Adds bar against actions filed under GS Ch. 168A for persons who have commenced federal judicial or administrative proceedings under the Americans with Disabilities Act of 1990, as amended, or associated regulations. Changes statute of limitations under Ch. 168A to make the 180 day limitations period apply only to civil actions regarding employment discrimination, adding a two-year limitations period for any other complaint of discrimination giving rise to claims under this chapter

**ASSUMPTIONS AND METHODOLOGY:**

This legislation primarily updates the language in the statutes concerning persons with disabilities to replace the term "handicapped" with the current terminology "Persons With Disabilities" and the term "handicapping" with "disabling". Updates language describing Major Life Activities (an illustrative list of possible examples) to include working as a major life activity, consistent with federal case law in this area.

SB 934 also modifies the language in 168-11(c) which specifies that a person can not pursue state action through the courts while there are pending proceedings under federal regulations by adding proceedings under the Americans with Disabilities Act (ADA) as an example of federal proceedings. This change is merited because the current state statute predates the ADA.

The current statute of limitations for all civil actions relating to discrimination against persons with disabilities is 180 days after the date on which the aggrieved person became aware of discriminatory practice. This bill extends the statute to 2 years for non employment discrimination cases. This may result in more cases being filed but since 90% of discrimination cases are employment related, the number is likely to be small. The longer statute of limitation may also extend the opportunities for negotiation/settlement and thereby decrease the number of court cases. Therefore we do not foresee any noticeable impact on the Judicial System.

The Fiscal Research Division consulted with the Governor's Advocacy Council for Persons with Disabilities, the Attorney General, and the Department of Health and Human Services to get opinions on any potential impact of this legislation on eligibility for federal funds or the state's exposure to discrimination lawsuits. No problems in these areas were noted.

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Elisa Wolper

**APPROVED BY:** Tom Covington



**DATE:** Tuesday, April 27, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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1

HOUSE BILL 255

Short Title: Vocational Rehabilitation Changes/AB.

(Public)

Sponsors: Representatives Alexander; Mosely and Wainwright.

Referred to: Health.

March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE STATUTES INVOLVING VOCATIONAL  
3 REHABILITATION IN ORDER TO COMPLY WITH FEDERAL LAW.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 143-545.1(b)(2) reads as rewritten:

6 "(2) The Secretary of the Department of Health and Human Services  
7 shall adopt rules to establish eligibility for services, the nature and  
8 scope of services to be provided, standards for community  
9 rehabilitation programs and qualified personnel to provide services  
10 and conditions, criteria, and procedures under which services may  
11 be provided including financial need for services. Rules governing  
12 financial need for services shall meet the requirements set in  
13 federal law and regulations. ~~The following services shall not be~~  
14 ~~conditioned on the client's or applicant's ability to pay for the cost~~  
15 ~~of those services:~~

16 a. ~~Evaluation of rehabilitation potential, except for those~~  
17 ~~vocational rehabilitation services other than of a diagnostic~~  
18 ~~nature that are provided under an extended evaluation of~~  
19 ~~rehabilitation potential;~~

20 b. ~~Counseling, guidance, and referral services; and~~

21 c. ~~Placement."~~

22 Section 2. G.S. 143-548 reads as rewritten:

23 "§ 143-548. Vocational Rehabilitation ~~Advisory~~ Council.

(a) There is established the Vocational Rehabilitation ~~Advisory~~ Council within the Division of Vocational Rehabilitation Services to be composed of ~~15 voting members~~ not more than 18 appointed members. Appointed members shall be voting members except where prohibited by federal law or regulations. The Director of the Division of Vocational Rehabilitation Services and one vocational rehabilitation counselor who is an employee of the Division shall serve ex officio as nonvoting members. The President Pro Tempore of the Senate shall appoint ~~five~~ six members, the Speaker of the House of Representatives shall appoint ~~five~~ six members, and the Governor shall appoint five or six members. The appointing authorities shall appoint members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities. Terms of appointment shall be as specified in subsection (d1) of this section. Appointments shall be made as follows:

- (1) The ~~five~~ six members appointed by the President Pro Tempore of the Senate shall include one member recommended by the North Carolina Citizens for Business and Industry, one other representing providers of community rehabilitation services, one other who is a vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who is not an employee of the Division, one other representing the Commission on Workforce Preparedness, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the President Pro Tempore of the Senate, three shall be individuals with disabilities;
- (2) The ~~five~~ six members appointed by the Speaker of the House of Representatives shall include one member representing the business and industry sector, one other representing labor, one other representing a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c), one other representing the Department of Public Instruction, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the Speaker of the House of Representatives, three shall be individuals with disabilities; and
- (3) The five or six members appointed by the Governor shall include one member representing the business and industry sector, one other representing the regional rehabilitation centers for the physically disabled, one other representing the Division's Statewide Independent Living Council, one other representing the ~~Division's~~ State's Client Assistance Program, one other representing the directors of projects carried out under section 121 of the

1                    Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there  
2                    are any of these projects in the State, and one other current or  
3                    former applicant for or recipient of vocational rehabilitation  
4                    services. ~~Three of the members appointed by the Governor shall be~~  
5                    ~~individuals with disabilities.~~ If five members are appointed by the  
6                    Governor, three shall be individuals with disabilities. If six  
7                    members are appointed by the Governor, four shall be individuals  
8                    with disabilities.

9                    (b) Repealed by Session Laws 1993, c. 248, s. 1.

10                  (b1) Additional Qualifications. -- In addition to ensuring the qualifications for  
11 membership prescribed in subsection (a) of this section, the appointing authorities  
12 shall ensure that a majority of Council members are individuals with disabilities and  
13 are not employed by the Division of Vocational Rehabilitation Services.

14                  (c) The Council shall elect one of the voting members of the Council as Chair of  
15 the Council. The Chair's term shall not exceed a single three-year term.

16                  (d) The Council shall meet at least quarterly and at other times at the call of the  
17 Chair. A majority of the voting members of the Council constitutes a quorum.

18                  (d1) Terms of Appointment. --

19                          (1) Length of Term. -- Each member of the Council shall serve for a  
20 term of not more than three years, except that:

21                                  a. A member appointed to fill a vacancy occurring prior to the  
22 expiration of the term for which a predecessor was  
23 appointed shall be appointed for the remainder of ~~such~~ that  
24 term;

25                                  b. The terms of service of the members initially appointed ~~shall~~  
26 be ~~are~~ as specified by the appointing authority for ~~such~~ a  
27 fewer number of years as will provide for the expiration of  
28 terms on a staggered basis and shall include the members of  
29 the existing Council to the extent possible with appropriate  
30 adjustments to their terms; ~~and~~

31                                  c. The appointing authority shall have the power to remove  
32 any member of the Council from office in accordance with  
33 the provisions of G.S. ~~143B-16; 143B-16; and~~

34                                  d. A member may continue to serve until a successor for the  
35 position is appointed;

36                          (2) Number of Terms. -- No member of the Council other than the  
37 representative of the Client Assistance Program and the  
38 representative of the directors of projects carried out under section  
39 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as  
40 amended, may serve more than two consecutive full terms.

41                  (d2) Vacancies. -- Any vacancy occurring in the membership of the Council shall  
42 be filled in the same manner as the original appointment. The vacancy shall not  
43 affect the power of the remaining members to execute the duties of the Council.

1 (d3) Functions of Council. -- The Council ~~shall~~ shall, after consulting with the  
2 Commission on Workforce Preparedness:

3 (1) Review, analyze, and advise the Division regarding the  
4 performance of its responsibilities under Title I of the  
5 Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act~~  
6 ~~Amendments of 1992~~, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq.,  
7 as amended, particularly responsibilities relating to:

- 8 a. Eligibility, including order of selection;  
9 b. The extent, scope, and effectiveness of services provided;  
10 and  
11 c. Functions performed by State agencies that affect or that  
12 potentially affect the ability of individuals with disabilities in  
13 achieving ~~rehabilitation goals and objectives under the Act;~~  
14 employment outcomes under Title I of the Rehabilitation  
15 Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq.;

16 (1a) In partnership with the Division:

- 17 a. Develop, agree to, and review State goals and priorities in  
18 accordance with section 101(a)(15)(C) of the Rehabilitation  
19 Act of 1973, 29 U.S.C. § 721(a)(15)(C); and  
20 b. Evaluate the effectiveness of the vocational rehabilitation  
21 program and submit reports of progress to the  
22 Commissioner of the Rehabilitation Services Administration  
23 of the U.S. Department of Education in accordance with  
24 section 101(a)(15)(E) of the Rehabilitation Act of 1973, 29  
25 U.S.C. § 721(a)(15)(E);

26 (2) Advise the Department of Health and Human Services and the  
27 ~~Division, and, at the discretion of the Department,~~ Division  
28 regarding activities authorized to be carried out under Title I of  
29 the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. §  
30 720, et seq., as amended and assist in the preparation of  
31 applications, the State Plan, the strategic plan and amendments to  
32 the plans, reports, needs assessments, and evaluations required by  
33 Title I of the Rehabilitation Act of 1973, as amended by the  
34 Rehabilitation Act Amendments of 1992; Rehabilitation Act of  
35 1973;

36 (3) To the extent feasible, conduct a review and analysis of the  
37 effectiveness of, and consumer satisfaction with:

- 38 a. ~~The functions performed by~~ Vocational rehabilitation  
39 functions and services provided by the Department of  
40 Health and Human Services and other State agencies and  
41 other public and private entities responsible for performing  
42 functions for providing vocational rehabilitation services to  
43 individuals with disabilities; disabilities under the

- 1                                    Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355,  
2                                    29 U.S.C. § 701, et seq.; and  
3                                    ~~b. Vocational rehabilitation services:~~  
4                                    1. ~~Provided, or paid for from funds made available,~~  
5                                    ~~under the Rehabilitation Act of 1973, as amended by~~  
6                                    ~~the Rehabilitation Act Amendments of 1992, or~~  
7                                    ~~through other public or private sources; and~~  
8                                    2. ~~Provided by State agencies and other public and~~  
9                                    ~~private entities responsible for providing vocational~~  
10                                   ~~rehabilitation services to individuals with disabilities;~~  
11                                   c. Employment outcomes achieved by eligible individuals  
12                                   receiving services under Title I of the Rehabilitation Act of  
13                                   1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as  
14                                   amended, including the availability of health and other  
15                                   employment benefits in connection with those employment  
16                                   outcomes;  
17                                   (4) Prepare and submit an annual report to the Governor and the  
18                                   Commissioner of the Rehabilitation Services Administration of the  
19                                   U.S. Department of Education on the status of vocational  
20                                   rehabilitation programs operated within the State and make the  
21                                   report available to the public;  
22                                   (5) Coordinate activities with the activities of other councils within the  
23                                   State, including the Division's Statewide Independent Living  
24                                   ~~Council; Council established under section 705 of the~~  
25                                   Rehabilitation Act of 1973, 29 U.S.C. § 742, the advisory panel  
26                                   established under section 613(a)(12) 612(a)(21) of the Individuals  
27                                   with Disabilities Education Act, 20 U.S.C. § 1413(a)(12), the State  
28                                   Planning Development Disabilities Council described in section  
29                                   124 of the Developmental Disabilities Assistance and Bill of Rights  
30                                   Act, 42 U.S.C. § 6024, and the State Mental Health Planning  
31                                   Council established under section 1916(e) 1914(a) of the Public  
32                                   Health Service Act, 42 U.S.C. § 300x-4(e); 300x-4(e), and the  
33                                   Commission on Workforce Preparedness;  
34                                   (6) ~~Advise the Department and provide~~ Provide for coordination and  
35                                   the establishment of working relationships between the Department  
36                                   and the Statewide Independent Living Council and centers for  
37                                   independent living within the State; and  
38                                   (7) Perform such other functions, consistent with the purpose of Title I  
39                                   of the Rehabilitation Act of 1973, ~~as amended by the~~  
40                                   ~~Rehabilitation Act Amendments of 1992, Pub. L. No. 93-112, 29~~  
41                                   U.S.C. § 720, et seq., as amended, as the Governor and the  
42                                   ~~Secretary may refer to it from time to time. Council determines to~~  
43                                   be appropriate, that are comparable to other functions performed  
44                                   by the Council.

1 (d4) Resources. --

2 (1) The Division shall supply all necessary clerical and staff support to  
3 the Council pursuant to G.S. 143B-14(a) and ~~(d), and (d).~~ The  
4 Council shall prepare, in conjunction with the ~~Council~~, Division, a  
5 plan for the provision of such resources as may be necessary and  
6 sufficient to carry out the functions of the Council under this Part.  
7 The resource plan shall, to the maximum extent possible, rely on  
8 the use of resources in existence during the period of  
9 implementation of the plan.

10 (2) To the extent that there is a disagreement between the Council and  
11 the Division in regard to the resources necessary to carry out the  
12 functions of the Council as set forth in this Part, the disagreement  
13 shall be resolved by the Governor.

14 (3) While assisting the Council in carrying out its duties, staff and  
15 other personnel shall not be assigned duties by the Division or any  
16 other agency of the State that would create a conflict of interest.

17 (d5) Member Conflict of Interest. -- No member of the Council shall cast a vote  
18 on any matter that would provide direct financial benefit to the member or otherwise  
19 give the appearance of a conflict of interest under State law.

20 (e) Council members shall be reimbursed for expenses incurred in the  
21 performance of their duties in accordance with G.S. 138-5. In addition, Council  
22 members may be reimbursed for personal assistance services that are necessary for  
23 members to attend Council meetings and perform Council duties. These expenses  
24 shall not exceed whichever is lower, the actual cost of the services or the Medicaid  
25 rate per day for personal assistance services, in addition to subsistence and travel  
26 expenses at the State rate for the attendant."

27 Section 3. This act is effective when it becomes law.



BILL ANALYSIS

## HOUSE BILL 255: VOCATIONAL REHABILITATION CHANGES

<b>Committee:</b>	Children & Human Resources	<b>Introduced by:</b>	Alexander
<b>Date:</b>	May 26, 1999	<b>Summary by:</b>	Jo B. McCants
<b>Version:</b>	1		Committee Co-Counsel

### Background:

It is the policy of the State that persons with physical and mental disabilities should be able to participate to the maximum extent of their abilities in the economic, educational, cultural, social and political activities available to all citizens of the State. (G.S. 143-545.1(a)) To implement this policy the Department of Health and Human Services operates a comprehensive program of vocational rehabilitation and independent living programs that are administered by the Division of Vocational Rehabilitation. The primary funding for those programs in the Division of Vocational Rehabilitation comes from federal sources under authority of the Federal Rehabilitation Act of 1973 with amendments through the Federal Rehabilitation Act Amendments of 1998 as part of the Workforce Investment Act of 1998 (P.L. 105-220). The Division of Vocational Rehabilitation has requested changes in G.S. 143-545.1 and G.S. 143-548 that the Division believes will conform our statutes to the federal requirements of P.L. 105-220.

### Summary

House Bill 255 makes the following statutory changes:

1. **Section 1-** amends G.S. 143-545.1 to delete the reference to "extended evaluation". Extended evaluations were required under previous federal law to assist potential clients who initially appeared to be ineligible for placement because of severe disabilities. The federal regulations no longer use the term "extended evaluation." However, the Division will continue pursuant to other regulations, to provide assistance to those persons who have severe disabilities.
2. **Section 2-**Amends G.S. 143-548 to make the following changes in the Vocational Rehabilitation Advisory Council;
  - a. deletes the word "advisory" from the name of the Vocational Rehabilitation Advisory Council,
  - b. expands the membership from 15 to not more than 18 by adding 1) one additional member appointed by the President Pro Tempore who represents the Commission on Workforce Preparedness, 2) one additional member appointed by the Speaker representing the Department of Public Instruction, and 3) one additional member appointed by the Governor representing the directors of projects carried out under § 121 of the Rehabilitation Act of 1973 (monies under the Act reserved for native Americans) if there are such projects.
  - c. gives the Council certain responsibilities specified under federal statutes.
3. **Section 3-**Makes the statute effective when it becomes law.

\*\*\*John Young contributed to the preparation of this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 302

State and Local Government Committee Substitute Adopted 4/5/99  
House Committee Substitute Favorable 7/7/99

Short Title: Lee and Rutherford Hunting/Chowan Fox Hunting.

(Local)

Sponsors:

Referred to:

March 9, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE HUNTING IN LEE AND RUTHERFORD COUNTIES  
3 AND TO ESTABLISH SEASONS FOR HUNTING FOXES WITH WEAPONS  
4 AND WITH TRAPS IN CHOWAN COUNTY.

5 The General Assembly of North Carolina enacts:

6 Section 1. It is unlawful for any person to hunt with a firearm, bow and  
7 arrow or crossbow, or other deadly weapon while on the land of another unless the  
8 person is a spouse, child, or grandchild of the landowner or has on his person a  
9 paper writing dated and signed by the owner or lessee of the land granting the person  
10 permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon  
11 while on the land. If the land is owned by or leased to a club, the permission shall  
12 be signed by the club president or other chief executive. If the land is owned by or  
13 leased to a corporation, the permission shall be signed by the president or the vice-  
14 president of the corporation or the authorized designee of the president or vice-  
15 president. Permission shall not be valid for a period of more than one year, but may  
16 be valid for any shorter period stated in the permission. The written permission shall  
17 be displayed upon request to any law enforcement officer authorized to enforce this  
18 section.

19 Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and  
20 arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any  
21 such weapon any wild animal or wild bird on, from, or across the right-of-way of any  
22 public road, street, highway, or thoroughfare.

1           Section 3. It is unlawful to discharge a firearm from, onto, across, or  
2 down the right-of-way of any public road, street, highway, or thoroughfare. This  
3 section shall not apply to law enforcement officers who discharge their firearms in the  
4 lawful discharge of their duties.

5           Section 4. Violation of the provisions of Sections 1 through 3 of this act  
6 is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-  
7 1340.23, violation of those sections is punishable by a fine of up to three hundred  
8 dollars (\$300.00).

9           Section 5. This act is enforceable by law enforcement officers of the  
10 Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace  
11 officers with general subject matter jurisdiction.

12           Section 6. Section 5 of Chapter 128 of the 1989 Session Laws reads as  
13 rewritten:

14       "Section 5. This act applies only to Gates ~~County~~ and Chowan Counties."

15           Section 7. Sections 1 through 5 of this act apply only to Lee County and  
16 Rutherford County. Section 6 of this act applies only to Chowan County.

17           Section 8. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 302  
Committee Substitute Favorable 4/22/99  
Third Edition Engrossed 4/27/99  
Proposed Senate Committee Substitute H302-PCS6214-SE

Short Title: Enhance Child Support Enforce./AB.

(Public)

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Sponsors:

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Referred to:

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March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD  
3 SUPPORT ENFORCEMENT.

4 The General Assembly of North Carolina enacts:

5

6 **PART I. ENHANCE CHILD SUPPORT ENFORCEMENT.**

7 Section 1. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17,  
8 reads as rewritten:

9 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
10 paternity, the written acknowledgment of paternity executed by the putative father of  
11 the dependent child when accompanied by a written affirmation of paternity executed  
12 and sworn to by the mother of the dependent child shall constitute an admission of  
13 paternity, paternity and shall have the same legal effect as a judgment of paternity for  
14 the purpose of establishing a child support obligation, subject to the right of either  
15 signatory to rescind within the earlier of:

16 (1) 60 days of the date the document is executed, or

17 (2) The date of entry of an order establishing paternity or an order for  
18 the payment of child support.

19 In order to rescind, a challenger must request the district court to order the  
20 rescision and to include in the order specific findings of fact that the request for  
21 rescision was filed with the clerk of court within 60 days of the signing of the

1 document. The court must also find that all parties, including the child support  
2 enforcement agency, if appropriate, have been served in accordance with Rule 4 of  
3 the North Carolina Rules of Civil Procedure. In the event the court orders rescision  
4 and the putative father is thereafter found not to be the father of the child, then the  
5 clerk of court shall send a copy of the order of rescision to the State Registrar of Vital  
6 Statistics. Upon receipt of an order of rescision, the State Registrar shall remove the  
7 putative father's name from the birth certificate. In the event that the putative father  
8 defaults or fails to present or prosecute the issue of paternity, the trial court shall find  
9 the putative father to be the biological father as a matter of law.

10 After 60 days have elapsed, execution of the document may be challenged in court  
11 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of  
12 proof shall be on the challenging party, and the legal responsibilities, including child  
13 support obligations, of any signatory arising from the executed documents may not be  
14 suspended during the challenge except for good cause shown.

15 A written agreement to support the child by periodic payments, which may include  
16 provision for reimbursement for medical expenses incident to the pregnancy and the  
17 birth of the child, accrued maintenance and reasonable expense of prosecution of the  
18 paternity action, when acknowledged as provided herein, filed with, and approved by  
19 a judge of the district court at any time, shall have the same force and effect as an  
20 order of support entered by that court, and shall be enforceable and subject to  
21 modification in the same manner as is provided by law for orders of the court in such  
22 cases. The written affirmation shall contain the social security number of the person  
23 executing the affirmation, and the written acknowledgment shall contain the social  
24 security number of the person executing the acknowledgment. Voluntary agreements  
25 to support shall contain the social security number of each of the parties to the  
26 agreement. The written affirmations, acknowledgments and agreements to support  
27 shall be sworn to before a certifying officer or notary public or the equivalent or  
28 corresponding person of the state, territory, or foreign country where the affirmation,  
29 acknowledgment, or agreement is made, and shall be binding on the person executing  
30 the same whether the person is an adult or a minor. The child support enforcement  
31 agency shall ensure that the mother and putative father are given oral and written  
32 notice of the legal consequences and responsibilities arising from the signing of an  
33 acknowledgement of paternity, and of any alternatives to the execution of an  
34 acknowledgment or affirmation of paternity. The mother shall not be excused from  
35 making the affirmation on the grounds that it may tend to disgrace or incriminate  
36 her; nor shall she thereafter be prosecuted for any criminal act involved in the  
37 conception of the child as to whose paternity she makes affirmation."

38 Section 2. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17,  
39 reads as rewritten:

40 "(b) Upon finding that the individual has willfully failed to comply with the child  
41 support order or with a subpoena issued pursuant to child support proceedings, and  
42 that the obligor is at least 90 days in arrears, or upon a finding that an individual  
43 subject to a subpoena issued pursuant to child support or paternity establishment  
44 proceedings has failed to comply with the subpoena, the court may enter an order

1 instituting the sanctions as provided in subsection (a) of this section. If an individual  
2 is adjudicated to be in civil or criminal contempt for a third or subsequent time for  
3 failure to comply with a child support order, the court shall enter an order instituting  
4 any one or more of the sanctions, if applicable, as provided in subsection (a) of this  
5 section. The court may stay the effectiveness of the sanctions upon conditions  
6 requiring the obligor to make full payment of the delinquency over time. Any court-  
7 ordered payment plan under this subsection shall require the individual to extinguish  
8 the delinquency within a reasonable period of time. In determining the amount to be  
9 applied to the delinquency, the court shall consider the amount of the debt and the  
10 individual's financial ability to pay. The payment shall not exceed the limits under  
11 G.S. 110-136.6(b). The individual shall make an immediate initial payment  
12 representing at least five percent (5%) of the total delinquency or five hundred  
13 dollars (\$500.00), whichever is less. Any ~~such~~ stay of an order under this subsection  
14 shall also be conditioned upon the obligor's maintenance of current child support.  
15 The court may stay the effectiveness of the sanctions against an individual subject to a  
16 subpoena issued pursuant to child support or paternity establishment proceedings  
17 upon a finding that the individual has complied with or is no longer subject to the  
18 subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
19 individual shall surrender any licenses revoked by the court's order to the child  
20 support enforcement agency and the agency shall forward a report to the appropriate  
21 licensing authority within 30 days of the order."

22 Section 3. G.S. 50-13.4(c) reads as rewritten:

23 "(c) Payments ordered for the support of a minor child shall be in such amount as  
24 to meet the reasonable needs of the child for health, education, and maintenance,  
25 having due regard to the estates, earnings, conditions, accustomed standard of living  
26 of the child and the parties, the child care and homemaker contributions of each  
27 party, and other facts of the particular case. Payments ordered for the support of a  
28 minor child shall be on a monthly basis, due and payable on the first day of each  
29 month. The requirement that orders be established on a monthly basis does not  
30 affect the availability of garnishment of disposable earnings based on an obligor's pay  
31 period.

32 The court shall determine the amount of child support payments by applying the  
33 presumptive guidelines established pursuant to subsection (c1). However, upon  
34 request of any party, the Court shall hear evidence, and from the evidence, find the  
35 facts relating to the reasonable needs of the child for support and the relative ability  
36 of each parent to provide support. If, after considering the evidence, the Court finds  
37 by the greater weight of the evidence that the application of the guidelines would not  
38 meet or would exceed the reasonable needs of the child considering the relative  
39 ability of each parent to provide support or would be otherwise unjust or  
40 inappropriate the Court may vary from the guidelines. If the court orders an amount  
41 other than the amount determined by application of the presumptive guidelines, the  
42 court shall make findings of fact as to the criteria that justify varying from the  
43 guidelines and the basis for the amount ordered.

1 Payments ordered for the support of a child shall terminate when the child reaches  
2 the age of 18 except:

3 (1) If the child is otherwise emancipated, payments shall terminate at  
4 that time;

5 (2) If the child is still in primary or secondary school when the child  
6 reaches age 18, support payments shall continue until the child  
7 graduates, otherwise ceases to attend school on a regular basis, fails  
8 to make satisfactory academic progress towards graduation, or  
9 reaches age 20, whichever comes first, unless the court in its  
10 discretion orders that payments cease at age 18 or prior to high  
11 school graduation.

12 In the case of graduation, or attaining age 20, payments shall terminate without  
13 order by the court, subject to the right of the party receiving support to show, upon  
14 motion and with notice to the opposing party, that the child has not graduated or  
15 attained the age of 20."

16 Section 4. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17,  
17 reads as rewritten:

18 "(a) An income-withholding order issued in another state may be sent to the  
19 person or entity defined or identified as the obligor's employer under the income-  
20 withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as  
21 applicable, without first filing a petition or comparable pleading or registering the  
22 order with a tribunal of this State. In the event that an obligor is receiving  
23 unemployment compensation benefits from the North Carolina Employment Security  
24 Commission, in accordance with G.S. 96-17, an income-withholding order issued in  
25 another state may be sent to the Employment Security Commission without first filing  
26 a petition or comparable pleading or registering the order with a tribunal of this  
27 State. Upon receipt of the order, the employer or the Employment Security  
28 Commission shall:

29 (1) Treat an income-withholding order issued in another state which  
30 appears regular on its face as if it had been issued by a tribunal of  
31 this State;

32 (2) Immediately provide a copy of the order to the obligor; and

33 (3) Distribute the funds as directed in the withholding order. The  
34 Employment Security Commission shall not withhold an amount to  
35 exceed twenty-five percent (25%) of the unemployment  
36 compensation benefits."

37 Section 5. G.S. 110-136.2(f) reads as rewritten:

38 "(f) In the absence of a voluntary assignment of unemployment compensation  
39 benefits, the Department of Health and Human Services shall implement income  
40 withholding as provided in this Article for IV-D cases. The amount withheld shall not  
41 exceed twenty-five percent (25%) of the unemployment compensation benefits.  
42 Notice of the requirement to withhold shall be served upon the Employment Security  
43 Commission and payment shall be made by the Employment Security Commission  
44 directly to the Department of Health and Human Services pursuant to G.S. ~~96-17~~ 96-

1 17 or to another state under G.S. 52C-5-501. Except for the requirement to withhold  
2 from unemployment compensation benefits and the forwarding of withheld funds to  
3 the Department of Health and Human ~~Services~~, Services or to another state under  
4 G.S. 52C-5-501, the Employment Security Commission is exempt from the provisions  
5 of G.S. 110-136.8."

6 Section 6. Article 9 of Chapter 110 of the General Statutes is amended  
7 by adding a new section to read:

8 "**§ 110-139.3. High-volume, automated administrative enforcement in interstate cases**  
9 **(AEI).**

10 Upon request of another state, the Department of Health and Human Services  
11 shall use automated data processing to search State databases and determine if  
12 information is available regarding a parent who owes a child support obligation and  
13 shall seize identified assets using the same techniques as used in intrastate cases. Any  
14 request by another state to enforce support orders shall certify the amount of each  
15 obligor's debt and that appropriate due process requirements have been met by the  
16 requesting state with respect to each obligor. The Department of Health and Human  
17 Services shall likewise transmit to other states requests for assistance in enforcing  
18 support orders through high-volume, automated administrative enforcement where  
19 appropriate."

20 Section 7. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17, reads  
21 as rewritten:

22 "**§ 108A-69. Employer obligations.**

23 (a) As used in this section and in G.S. 108A-70:

24 (1) 'Health benefit plan' means an accident and health insurance  
25 policy or certificate; a nonprofit hospital or medical service  
26 corporation contract; a health maintenance organization subscriber  
27 contract; a plan provided by a multiple employer welfare  
28 arrangement; the Teachers' and State Employees' Comprehensive  
29 Major Medical Plan under Chapter 135 of the General Statutes; or  
30 a plan provided by another benefit arrangement. 'Health benefit  
31 plan' does not mean a Medicare supplement policy as defined in  
32 G.S. 58-54-1(5).

33 (2) 'Health insurer' means any health insurance company subject to  
34 Articles 1 through 63 of Chapter 58 of the General Statutes,  
35 including a multiple employee welfare arrangement, and any  
36 corporation subject to Articles 65 and 67 of Chapter 58 of the  
37 General Statutes; ~~and means~~ a group health plan, as defined in  
38 Section 607(1) of the Employee Retirement Income Security Act of  
39 ~~1974.~~ 1974; and the Teachers' and State Employees'  
40 Comprehensive Major Medical Plan under Chapter 135 of the  
41 General Statutes.

42 (b) If a parent is required by a court or administrative order to provide health  
43 benefit plan coverage for a child, and the parent is eligible for family health benefit

1 plan coverage through an ~~employer doing business in this State~~, employer, the  
2 employer:

- 3 (1) Must allow the parent to enroll, under family coverage, the child if  
4 the child would be otherwise eligible for coverage without regard  
5 to any enrollment season restrictions.
- 6 (2) Must enroll the child under family coverage upon application of  
7 the child's other parent or upon receipt of notice from the  
8 Department of Health and Human Services in connection with its  
9 administration of the Medical Assistance or Child Support  
10 Enforcement Program if the parent is enrolled but fails to make  
11 application to obtain coverage for the child.
- 12 (3) May not disenroll or eliminate coverage of the child unless:
  - 13 a. The employer is provided satisfactory written evidence that:
    - 14 1. The court or administrative order is no longer in  
15 effect; or
    - 16 2. The child is or will be enrolled in comparable health  
17 benefit plan coverage that will take effect not later  
18 than the effective date of disenrollment; or
  - 19 b. The employer has eliminated family health benefit plan  
20 coverage for all of its employees.
- 21 (4) Must withhold from the employee's compensation the employee's  
22 share, if any, of premiums for health benefit plan coverage, not to  
23 exceed the maximum amount permitted to be withheld under  
24 section 303(b) of the federal Consumer Credit Protection Act, as  
25 amended; and must pay this amount to the health insurer; subject  
26 to regulations, if any, adopted by the Secretary of the U.S.  
27 Department of Health and Human Services."

28 Section 8. G.S. 58-51-115(a) reads as rewritten:

29 "(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

- 30 (1) 'Health benefit plan' means any accident and health insurance  
31 policy or certificate; a nonprofit hospital or medical service  
32 corporation contract; a health maintenance organization subscriber  
33 contract; a plan provided by a multiple employer welfare  
34 arrangement; the Teachers' and State Employees' Comprehensive  
35 Major Medical Plan under Chapter 135 of the General Statutes; or  
36 a plan provided by another benefit arrangement. 'Health benefit  
37 plan' does not mean a Medicare supplement policy as defined in  
38 G.S. 58-54-1(5).
- 39 (2) 'Health insurer' means any health insurance company subject to  
40 Articles 1 through 63 of this Chapter, including a multiple  
41 employee welfare arrangement, and any corporation subject to  
42 Articles 65 and 67 of this Chapter; ~~and means~~ a group health plan,  
43 as defined in section 607(1) of the Employee Retirement Income  
44 Security Act of ~~1974~~; 1974; and the Teachers' and State

Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes."

Section 9. G.S. 15A-1344.1(a) reads as rewritten:

"(a) When the court requires, as a condition of supervised or unsupervised probation, that a defendant support his children, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the payments. For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply. If child support is to be paid through income withholding, the payments shall be made in accordance with G.S. 110-139(f)."

Section 10. G.S. 50-13.9(b) reads as rewritten:

"(b) After entry of such an order by the court, the clerk of superior court shall transmit child support payments that are made to the clerk in IV-D cases to the Department of Health and Human Services for appropriate distribution. Pursuant to G.S. 110-139(f), amounts withheld by employers in IV-D and in non-IV-D cases shall be sent directly from the employer to the State Child Support Collection and Disbursement Unit for disbursement to the custodial parent or other party entitled to receive them, unless a court order requires otherwise. In all other cases, non-IV-D cases in which wage withholding is not in effect, the clerk shall transmit the payments to the custodial parent or other party entitled to receive them, unless a court order requires otherwise."

Section 11. G.S. 50-13.9(b2) reads as rewritten:

"(b2) In a non-IV-D case:

(1) The clerk of court shall have the responsibility and authority for monitoring the obligor's compliance with all child support orders in the case and for initiating any enforcement procedures that it considers appropriate. In non-IV-D cases subject to income withholding, the State Child Support Collection and Disbursement Unit shall notify the clerk of court of all payments made in non-IV-D income-withholding cases so that the clerk of court can initiate enforcement proceedings as provided in subsection (d) of this section.

(2) The clerk of court shall maintain all official records in the case.

(3) The clerk of court shall maintain any other records needed to monitor the obligor's compliance with or to enforce the child support orders in the case, including records showing the amount of each payment of child support received from or on behalf of the obligor, along with the dates on which each payment was received."

Section 12. G.S. 110-36.3 is amended by adding a new subsection to read:

"(d1) Employment Verifications. -- For the purpose of establishing or modifying a child support order, the amount of the obligor's gross income may be established by a written statement signed by the obligor's employer or the employer's designee or an

Employee Verification form produced by the Automated Collections Tracking System that has been completed and signed by the obligor's employer or the employer's designee. A written statement signed by the employer of the obligor or the employer's designee that sets forth an obligor's gross income, as well as an Employee Verification form signed by the obligor's employer or the employer's designee, shall be admissible evidence in any action establishing or modifying a child support order."

Section 13. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17 and Section 7 of S.L. 1998-176, reads as rewritten:

"(b) Payor's responsibilities. A payor who has been properly served with a notice to withhold is required to:

- (1) Withhold from the obligor's disposable income and, within 7 business days of the date the obligor is paid, send to the ~~clerk of superior court or State collection and disbursement unit~~, Child Support Collection and Disbursement Unit, as specified in the notice, the amount specified in the notice and the date the amount was withheld, but in no event more than the amount allowed by G.S. 110-136.6; however, if a lesser amount of disposable income is available for any pay period, the payor shall either: (a) compute and send the appropriate amount to the ~~clerk of court~~, State Child Support Collection and Disbursement Unit, using the percentages as provided in G.S. 110-136.6, or (b) request the initiating party to inform the payor of the proper amount to be withheld for that period;
- (2) Continue withholding until further notice from the IV-D agency, the clerk of superior court, or the State collection and disbursement unit;
- (3) Withhold for child support before withholding pursuant to any other legal process under State law against the same disposable income;
- (4) Begin withholding from the first payment due the obligor in the first pay period that occurs 14 days following the date the notice of the obligation to withhold was served on the payor;
- (5) Promptly notify the obligee in a IV-D case, or the clerk of superior court or the State collection and disbursement unit in a non-IV-D case, in writing:
  - a. If there are one or more orders of child support withholding for the obligor;
  - a1. If there are one or more orders of alimony or postseparation support withholding for the obligor;
  - b. When the obligor terminates employment or otherwise ceases to be entitled to disposable income from the payor, and provide the obligor's last known address, and the name and address of his new employer, if known;

1 c. Of the payor's inability to comply with the withholding for  
2 any reason; and

3 (6) Cooperate fully with the initiating party in the verification of the  
4 amount of the obligor's disposable income."

5 Section 14. G.S. 110-136.8(d) reads as rewritten:

6 "(d) The payor may combine amounts withheld from obligors' disposable incomes  
7 in a single payment to ~~each clerk of superior court~~ the State Child Support  
8 Collection and Disbursement Unit if the payor separately identifies by name and case  
9 number the portion of the single payment attributable to each individual obligor and  
10 the date that each payment was withheld from the obligor's disposable income."

11 Section 15. G.S. 110-136.9 reads as rewritten:

12 "**§ 110-136.9. Payment of withheld funds.**

13 In IV-D ~~eases, cases and in non-IV-D cases in which the support order was initially~~  
14 issued in this State on or after January 1, 1994, and in which the income of the  
15 noncustodial parent is subject to income withholding, when required by federal or  
16 State law or regulations or by court order, the ~~clerk of superior court~~ State Child  
17 Support Collection and Disbursement Unit shall ~~transmit~~ distribute payments  
18 received from ~~payors to the Department of Health and Human Services for~~  
19 ~~appropriate distribution.~~ payors. In all other cases, unless a court order requires  
20 otherwise, the clerk of superior court shall transmit the payments to the custodial  
21 parent."  
22

23 **PART II. ENHANCE CHILD SUPPORT ENFORCEMENT -- APPROPRIATION**  
24 **REQUIRED.**

25 Section 16. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17,  
26 reads as rewritten:

27 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
28 paternity, the written acknowledgment of paternity executed by the putative father of  
29 the dependent child when accompanied by a written affirmation of paternity executed  
30 and sworn to by the mother of the dependent child shall constitute an admission of  
31 paternity, paternity and shall have the same legal effect as a judgment of paternity for  
32 the purpose of establishing a child support obligation, subject to the right of either  
33 signatory to rescind within the earlier of:

34 (1) 60 days of the date the document is executed, or

35 (2) The date of entry of an order establishing paternity or an order for  
36 the payment of child support.

37 In order to rescind, a challenger must request the district court to order the  
38 rescision and to include in the order specific findings of fact that the request for  
39 rescision was filed with the clerk of court within 60 days of the signing of the  
40 document. The court must also find that all parties, including the child support  
41 enforcement agency, if appropriate, have been served in accordance with Rule 4 of  
42 the North Carolina Rules of Civil Procedure. In the event the court orders rescision  
43 and the putative father is thereafter found not to be the father of the child, then the  
44 clerk of court shall send a copy of the order of rescision to the State Registrar of Vital

1 Statistics. Upon receipt of an order of recision, the State Registrar shall remove the  
2 putative father's name from the birth certificate. In the event that the putative father  
3 defaults or fails to present or prosecute the issue of paternity, the trial court shall find  
4 the putative father to be the biological father as a matter of law.

5 After 60 days have elapsed, execution of the document may be challenged in court  
6 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of  
7 proof shall be on the challenging party, and the legal responsibilities, including child  
8 support obligations, of any signatory arising from the executed documents may not be  
9 suspended during the challenge except for good cause shown.

10 A written agreement to support the child by periodic payments, which may include  
11 provision for reimbursement for medical expenses incident to the pregnancy and the  
12 birth of the child, accrued maintenance and reasonable expense of prosecution of the  
13 paternity action, when acknowledged as provided herein, filed with, and approved by  
14 a judge of the district court at any time, shall have the same force and effect as an  
15 order of support entered by that court, and shall be enforceable and subject to  
16 modification in the same manner as is provided by law for orders of the court in such  
17 cases. The written affirmation shall contain the social security number of the person  
18 executing the affirmation, and the written acknowledgment shall contain the social  
19 security number of the person executing the acknowledgment. Voluntary agreements  
20 to support shall contain the social security number of each of the parties to the  
21 agreement. The written affirmations, acknowledgments and agreements to support  
22 shall be sworn to before a certifying officer or notary public or the equivalent or  
23 corresponding person of the state, territory, or foreign country where the affirmation,  
24 acknowledgment, or agreement is made, and shall be binding on the person executing  
25 the same whether the person is an adult or a minor. The child support enforcement  
26 agency shall ensure that the mother and putative father are given oral and written  
27 notice of the legal consequences and responsibilities arising from the signing of an  
28 acknowledgement of paternity, and of any alternatives to the execution of an  
29 acknowledgment or affirmation of paternity. The mother shall not be excused from  
30 making the affirmation on the grounds that it may tend to disgrace or incriminate  
31 her; nor shall she thereafter be prosecuted for any criminal act involved in the  
32 conception of the child as to whose paternity she makes affirmation."

33 Section 17. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17,  
34 reads as rewritten:

35 "(b) Upon finding that the individual has willfully failed to comply with the child  
36 support order or with a subpoena issued pursuant to child support proceedings, and  
37 that the obligor is at least 90 days in arrears, or upon a finding that an individual  
38 subject to a subpoena issued pursuant to child support or paternity establishment  
39 proceedings has failed to comply with the subpoena, the court may enter an order  
40 instituting the sanctions as provided in subsection (a) of this section. If an individual  
41 is adjudicated to be in civil or criminal contempt for a third or subsequent time for  
42 failure to comply with a child support order, the court shall enter an order instituting  
43 any one or more of the sanctions, if applicable, as provided in subsection (a) of this  
44 section. The court may stay the effectiveness of the sanctions upon conditions

1 requiring the obligor to make full payment of the delinquency over time. Any court-  
2 ordered payment plan under this subsection shall require the individual to extinguish  
3 the delinquency within a reasonable period of time. In determining the amount to be  
4 applied to the delinquency, the court shall consider the amount of the debt and the  
5 individual's financial ability to pay. The payment shall not exceed the limits under  
6 G.S. 110-136.6(b). The individual shall make an immediate initial payment  
7 representing at least five percent (5%) of the total delinquency or five hundred  
8 dollars (\$500.00), whichever is less. Any such stay of an order under this subsection  
9 shall also be conditioned upon the obligor's maintenance of current child support.  
10 The court may stay the effectiveness of the sanctions against an individual subject to a  
11 subpoena issued pursuant to child support or paternity establishment proceedings  
12 upon a finding that the individual has complied with or is no longer subject to the  
13 subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
14 individual shall surrender any licenses revoked by the court's order to the child  
15 support enforcement agency and the agency shall forward a report to the appropriate  
16 licensing authority within 30 days of the order."

17 Section 18. G.S. 50-13.4(c) reads as rewritten:

18 "(c) Payments ordered for the support of a minor child shall be in such amount as  
19 to meet the reasonable needs of the child for health, education, and maintenance,  
20 having due regard to the estates, earnings, conditions, accustomed standard of living  
21 of the child and the parties, the child care and homemaker contributions of each  
22 party, and other facts of the particular case. Payments ordered for the support of a  
23 minor child shall be on a monthly basis, due and payable on the first day of each  
24 month. The requirement that orders be established on a monthly basis does not  
25 affect the availability of garnishment of disposable earnings based on an obligor's pay  
26 period.

27 The court shall determine the amount of child support payments by applying the  
28 presumptive guidelines established pursuant to subsection (c1). However, upon  
29 request of any party, the Court shall hear evidence, and from the evidence, find the  
30 facts relating to the reasonable needs of the child for support and the relative ability  
31 of each parent to provide support. If, after considering the evidence, the Court finds  
32 by the greater weight of the evidence that the application of the guidelines would not  
33 meet or would exceed the reasonable needs of the child considering the relative  
34 ability of each parent to provide support or would be otherwise unjust or  
35 inappropriate the Court may vary from the guidelines. If the court orders an amount  
36 other than the amount determined by application of the presumptive guidelines, the  
37 court shall make findings of fact as to the criteria that justify varying from the  
38 guidelines and the basis for the amount ordered.

39 Payments ordered for the support of a child shall terminate when the child reaches  
40 the age of 18 except:

- 41 (1) If the child is otherwise emancipated, payments shall terminate at  
42 that time;
- 43 (2) If the child is still in primary or secondary school when the child  
44 reaches age 18, support payments shall continue until the child

1 graduates, otherwise ceases to attend school on a regular basis, fails  
2 to make satisfactory academic progress towards graduation, or  
3 reaches age 20, whichever comes first, unless the court in its  
4 discretion orders that payments cease at age 18 or prior to high  
5 school graduation.

6 In the case of graduation, or attaining age 20, payments shall terminate without  
7 order by the court, subject to the right of the party receiving support to show, upon  
8 motion and with notice to the opposing party, that the child has not graduated or  
9 attained the age of 20."

10 Section 19. G.S. 50-13.4(d) reads as rewritten:

11 "(d) In non-IV-D cases, payments for the support of a minor child shall be  
12 ordered to be paid to the person having custody of the child or any other proper  
13 person, agency, organization or institution, or to the ~~court~~, State Child Support  
14 Collection and Disbursement Unit, for the benefit of the child. In IV-D cases,  
15 payments for the support of a minor child shall be ordered to be paid to the ~~court or~~  
16 ~~other proper State agency~~ Child Support Collection and Disbursement Unit for the  
17 benefit of the child."

18 Section 20. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17,  
19 reads as rewritten:

20 "(a) An income-withholding order issued in another state may be sent to the  
21 person or entity defined or identified as the obligor's employer under the income-  
22 withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as  
23 applicable, without first filing a petition or comparable pleading or registering the  
24 order with a tribunal of this State. In the event that an obligor is receiving  
25 unemployment compensation benefits from the North Carolina Employment Security  
26 Commission, in accordance with G.S. 96-17, an income-withholding order issued in  
27 another state may be sent to the Employment Security Commission without first filing  
28 a petition or comparable pleading or registering the order with a tribunal of this  
29 State. Upon receipt of the order, the employer or the Employment Security  
30 Commission shall:

- 31 (1) Treat an income-withholding order issued in another state which  
32 appears regular on its face as if it had been issued by a tribunal of  
33 this State;
- 34 (2) Immediately provide a copy of the order to the obligor; and
- 35 (3) Distribute the funds as directed in the withholding order. The  
36 Employment Security Commission shall not withhold an amount to  
37 exceed twenty-five percent (25%) of the unemployment  
38 compensation benefits."

39 Section 21. G.S. 110-136.2(f) reads as rewritten:

40 "(f) In the absence of a voluntary assignment of unemployment compensation  
41 benefits, the Department of Health and Human Services shall implement income  
42 withholding as provided in this Article for IV-D cases. The amount withheld shall not  
43 exceed twenty-five percent (25%) of the unemployment compensation benefits.  
44 Notice of the requirement to withhold shall be served upon the Employment Security

1 Commission and payment shall be made by the Employment Security Commission  
2 directly to the Department of Health and Human Services pursuant to G.S. ~~96-17~~ 96-  
3 17 or to another state under G.S. 52C-5-501. Except for the requirement to withhold  
4 from unemployment compensation benefits and the forwarding of withheld funds to  
5 the Department of Health and Human ~~Services~~, Services or to another state under  
6 G.S. 52C-5-501, the Employment Security Commission is exempt from the provisions  
7 of G.S. 110-136.8."

8 Section 22. Article 9 of Chapter 110 of the General Statutes is amended  
9 by adding a new section to read:

10 **"§ 110-139.3. High-volume, automated administrative enforcement in interstate cases**  
11 **(AEI).**

12 Upon request of another state, the Department of Health and Human Services  
13 shall use automated data processing to search State databases and determine if  
14 information is available regarding a parent who owes a child support obligation and  
15 shall seize identified assets using the same techniques as used in intrastate cases. Any  
16 request by another state to enforce support orders shall certify the amount of each  
17 obligor's debt and that appropriate due process requirements have been met by the  
18 requesting state with respect to each obligor. The Department of Health and Human  
19 Services shall likewise transmit to other states requests for assistance in enforcing  
20 support orders through high-volume, automated administrative enforcement where  
21 appropriate."

22 Section 23. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17,  
23 reads as rewritten:

24 **"§ 108A-69. Employer obligations.**

25 (a) As used in this section and in G.S. 108A-70:

26 (1) 'Health benefit plan' means an accident and health insurance  
27 policy or certificate; a nonprofit hospital or medical service  
28 corporation contract; a health maintenance organization subscriber  
29 contract; a plan provided by a multiple employer welfare  
30 arrangement; the Teachers' and State Employees' Comprehensive  
31 Major Medical Plan under Chapter 135 of the General Statutes; or  
32 a plan provided by another benefit arrangement. 'Health benefit  
33 plan' does not mean a Medicare supplement policy as defined in  
34 G.S. 58-54-1(5).

35 (2) 'Health insurer' means any health insurance company subject to  
36 Articles 1 through 63 of Chapter 58 of the General Statutes,  
37 including a multiple employee welfare arrangement, and any  
38 corporation subject to Articles 65 and 67 of Chapter 58 of the  
39 General Statutes; ~~and means~~ a group health plan, as defined in  
40 Section 607(1) of the Employee Retirement Income Security Act of  
41 ~~1974~~ 1974; and the Teachers' and State Employees'  
42 Comprehensive Major Medical Plan under Chapter 135 of the  
43 General Statutes.

(b) If a parent is required by a court or administrative order to provide health benefit plan coverage for a child, and the parent is eligible for family health benefit plan coverage through an ~~employer doing business in this State~~, employer, the employer:

- (1) Must allow the parent to enroll, under family coverage, the child if the child would be otherwise eligible for coverage without regard to any enrollment season restrictions.
- (2) Must enroll the child under family coverage upon application of the child's other parent or upon receipt of notice from the Department of Health and Human Services in connection with its administration of the Medical Assistance or Child Support Enforcement Program if the parent is enrolled but fails to make application to obtain coverage for the child.
- (3) May not disenroll or eliminate coverage of the child unless:
  - a. The employer is provided satisfactory written evidence that:
    1. The court or administrative order is no longer in effect; or
    2. The child is or will be enrolled in comparable health benefit plan coverage that will take effect not later than the effective date of disenrollment; or
  - b. The employer has eliminated family health benefit plan coverage for all of its employees.
- (4) Must withhold from the employee's compensation the employee's share, if any, of premiums for health benefit plan coverage, not to exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as amended; and must pay this amount to the health insurer; subject to regulations, if any, adopted by the Secretary of the U.S. Department of Health and Human Services."

Section 24. G.S. 58-51-115(a) reads as rewritten:

"(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

- (1) 'Health benefit plan' means any accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes; or a plan provided by another benefit arrangement. 'Health benefit plan' does not mean a Medicare supplement policy as defined in G.S. 58-54-1(5).
- (2) 'Health insurer' means any health insurance company subject to Articles 1 through 63 of this Chapter, including a multiple employee welfare arrangement, and any corporation subject to Articles 65 and 67 of this Chapter; ~~and means~~ a group health plan,

1 as defined in section 607(1) of the Employee Retirement Income  
2 Security Act of ~~1974~~; 1974; and the Teachers' and State  
3 Employees' Comprehensive Major Medical Plan under Chapter  
4 135 of the General Statutes."

5 Section 25. G.S. 15A-1344.1(a) reads as rewritten:

6 "(a) When the court requires, as a condition of supervised or unsupervised  
7 probation, that a defendant support his children, the court may order at any time that  
8 support payments be made to the clerk of court for remittance to the party entitled to  
9 receive the payments. For child support orders initially entered on or after January  
10 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~  
11 apply. If child support is to be paid through income withholding, the payments shall  
12 be made in accordance with G.S. 110-139(f)."

13 Section 26. G.S. 50-13.9(a) reads as rewritten:

14 "(a) Upon its own motion or upon motion of either party, the court may order at  
15 any time that support payments be made to the ~~clerk of court~~ State Child Support  
16 Collection and Disbursement Unit for remittance to the party entitled to receive the  
17 payments. For child support orders initially entered on or after January 1, 1994, the  
18 immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply."

19 Section 27. G.S. 50-13.9(b) reads as rewritten:

20 "(b) After entry of ~~such~~ an order by the ~~court~~, court under subsection (a) of this  
21 section, the clerk of superior court State Child Support Collection and Disbursement  
22 Unit shall transmit child support payments that are made to the clerk in IV-D cases  
23 to the Department of Health and Human Services for appropriate distribution. In all  
24 other cases, the clerk shall transmit the payments it to the custodial parent or other  
25 party entitled to receive them, unless a court order requires otherwise."

26 Section 28. G.S. 50-13.9(b2) reads as rewritten:

27 "(b2) In a non-IV-D case:

28 (1) The clerk of court shall have the responsibility and authority for  
29 monitoring the obligor's compliance with all child support orders  
30 in the case and for initiating any enforcement procedures that it  
31 considers appropriate. The State Child Support Collection and  
32 Disbursement Unit shall notify the clerk of court of all payments  
33 made in non-IV-D cases so that the clerk of court can initiate  
34 enforcement proceedings as provided in subsection (d) of this  
35 section.

36 (2) The clerk of court shall maintain all official records in the case.

37 (3) The clerk of court shall maintain any other records needed to  
38 monitor the obligor's compliance with or to enforce the child  
39 support orders in the case, including records showing the amount  
40 of each payment of child support received from or on behalf of the  
41 obligor, along with the dates on which each payment was  
42 received."

43 Section 29. G.S. 50-13.9(d) reads as rewritten:

"(d) In a non-IV-D case, when the clerk of superior court is notified by the State Child Support Collection and Disbursement Unit that an obligor fails has failed to make a required payment of child support and is in arrears, the clerk of superior court shall mail by regular mail to the last known address of the obligor a notice of delinquency. The notice shall set out the amount of child support currently due and shall demand immediate payment of ~~said~~ that amount. The notice shall also state that failure to make immediate payment will result in the issuance by the court of an enforcement order requiring the obligor to appear before a district court judge and show cause why the support obligation should not be enforced by income withholding, contempt of court, revocation of licensing privileges, or other appropriate means. Failure to receive the delinquency notice ~~shall is not be~~ a defense in any subsequent proceeding. Sending the notice of delinquency ~~shall be is~~ in the discretion of the clerk if the clerk has, during the previous 12 months, sent a notice or notices of delinquency to the obligor for nonpayment, or if income withholding has been implemented against the obligor or the obligor has been previously found in contempt for nonpayment under the same child support order.

If the arrearage is not paid in full within 21 days after the mailing of the delinquency notice, or without waiting the 21 days if the clerk has elected not to mail a delinquency notice for any of the reasons provided ~~herein, in this subsection,~~ the clerk shall cause an enforcement order to be issued and shall issue a notice of hearing before a district court judge. The enforcement order shall order the obligor to appear and show cause why ~~he~~ the obligor should not be subjected to income withholding or adjudged in contempt of court, or both, and shall order the obligor to bring to the hearing records and information relating to ~~his~~ the obligor's employment, ~~his~~ the obligor's licensing privileges, and the amount and sources of ~~his~~ the obligor's disposable income. The enforcement order shall state:

- (1) That the obligor is under a court order to provide child support, the name of each child for whose benefit support is due, and information sufficient to identify the order;
- (2) That the obligor is delinquent and the amount of overdue support;
- (2a) That the court may order the revocation of some or all of the obligor's licensing privileges if the obligor is delinquent in an amount equal to the support due for one month;
- (3) That the court may order income withholding if the obligor is delinquent in an amount equal to the support due for one month;
- (4) That income withholding, if implemented, will apply to the obligor's current payors and all subsequent payors and will be continued until terminated pursuant to G.S. 110-136.10;
- (5) That failure to bring to the hearing records and information relating to his employment and the amount and sources of his disposable income will be grounds for contempt;
- (6) That if income withholding is not an available or appropriate remedy, the court may determine whether the obligor is in contempt or whether any other enforcement remedy is appropriate.

1 The enforcement order may be signed by the clerk or a district court judge, and shall  
2 be served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.  
3 The clerk shall also notify the party to whom support is owed of the pending hearing.  
4 The clerk may withdraw the order to the supporting party upon receipt of the  
5 delinquent payment. On motion of the person to whom support is owed, with the  
6 approval of the district court judge, if the district court judge finds it is in the best  
7 interest of the child, no enforcement order shall be issued.

8 When the matter comes before the court, the court shall proceed as in the case of  
9 a motion for income withholding under G.S. 110-136.5. If income withholding is not  
10 an available or adequate remedy, the court may proceed with contempt, imposition of  
11 a lien, or other available, appropriate enforcement remedies.

12 This subsection shall apply only to non-IV-D cases, except that the clerk shall issue  
13 an enforcement order in a IV-D case when requested to do so by an IV-D obligee."

14 Section 30. G.S. 50-13.10(e) reads as rewritten:

15 "(e) When a child support payment ~~which that~~ is to be made to ~~a clerk of~~  
16 ~~superior court~~ the State Child Support Collection and Disbursement Unit is not  
17 received by ~~the clerk~~ the Unit when due, the payment is not a past due child support  
18 payment for purposes of this section, and no arrearage accrues, if the payment is  
19 actually made to and received on time by the party entitled to receive it and ~~such~~  
20 that receipt is evidenced by a canceled check, money order, or contemporaneously  
21 executed and dated written receipt. Nothing in this section shall affect the duties of  
22 the clerks or the IV-D agency under this Chapter or Chapter 110 of the General  
23 Statutes with respect to payments not received by ~~them~~ the Unit on time, but the  
24 court, in any action to enforce such a payment, may enter an order directing the  
25 clerk or the IV-D agency to enter the payment on ~~his~~ the clerk's or IV-D agency's  
26 records as having been made on time, if the court finds that the payment was in fact  
27 received by the party entitled to receive it as provided in this subsection."

28 Section 31. G.S. 110-36.3 is amended by adding a new subsection to  
29 read:

30 "(d1) Employment Verifications. -- For the purpose of establishing or modifying a  
31 child support order, the amount of the obligor's gross income may be established by a  
32 written statement signed by the obligor's employer or the employer's designee or an  
33 Employee Verification form produced by the Automated Collections Tracking System  
34 that has been completed and signed by the obligor's employer or the employer's  
35 designee. A written statement signed by the employer of the obligor or the  
36 employer's designee that sets forth an obligor's gross income, as well as an Employee  
37 Verification form signed by the obligor's employer or the employer's designee, shall  
38 be admissible evidence in any action establishing or modifying a child support order."

39 Section 32. G.S. 110-136(d) reads as rewritten:

40 "(d) Upon receipt of an order of garnishment, the garnishee shall transmit without  
41 delay to the ~~clerk of superior court~~ State Child Support Collection and Disbursement  
42 Unit the amount ordered by the court to be garnished. These funds shall be disbursed  
43 to the party designated by the court which in those cases of dependent children

1 receiving public assistance shall be the North Carolina Department of Health and  
2 Human Services."

3 Section 33. G.S. 110-136.5(b) reads as rewritten:

4 "(b) Withholding Based on Obligor's Request. The obligor may request at any  
5 time that income withholding be implemented. The request may be made either  
6 verbally in open court or by written request.

7 (1) A written request for withholding shall state:

- 8 a. That the obligor is under a court order to provide child  
9 support, and information sufficient to identify the order;
- 10 b. Whether the obligor is delinquent and the amount of any  
11 overdue support;
- 12 c. The name of each child for whose benefit support is  
13 payable;
- 14 d. The name, location, and mailing address of the payor or  
15 payors from whom the obligor receives disposable income  
16 and the amount of the obligor's monthly disposable income  
17 from each payor;
- 18 e. That the obligor understands that withholding, if  
19 implemented, will apply to the obligor's current payors and  
20 all subsequent payors and will be continued until terminated  
21 pursuant to G.S. 110-136.10; and
- 22 f. That the obligor understands that the amount withheld will  
23 include an amount sufficient to pay current child support,  
24 an additional amount toward liquidation of any arrearages,  
25 and a two dollar (\$2.00) processing fee to be retained by the  
26 employer for each withholding, but that the total amount  
27 withheld may not exceed the following percent of disposable  
28 income:
  - 29 1. Forty percent (40%) if there is only one order for  
30 withholding;
  - 31 2. Forty-five percent (45%) if there is more than one  
32 order for withholding and the obligor is supporting  
33 other dependent children or his or her spouse; or
  - 34 3. Fifty percent (50%) if there is more than one order  
35 for withholding and the obligor is not supporting  
36 other dependent children or a spouse.

37 (2) A written request for withholding shall be filed in the office of the  
38 clerk of superior court ~~to which the obligor is directed to make~~  
39 ~~child support payments.~~ of the court that entered the order for  
40 child support. If the request states and the clerk verifies that the  
41 obligor is not delinquent, the court may enter an order for  
42 withholding without further notice or hearing. If the request states  
43 or the clerk finds that the obligor is delinquent, the matter shall be  
44 scheduled for hearing unless the obligor in writing waives his right

1 to a hearing and consents to the entry of an order for withholding  
2 of an amount the court determines to be appropriate. The court  
3 may require a hearing in any case. Notice of any hearing under  
4 this subdivision shall be sent to the obligee."

5 Section 34. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17  
6 and Section 7 of S.L. 1998-176, reads as rewritten:

7 "(b) Payor's responsibilities. A payor who has been properly served with a notice  
8 to withhold is required to:

9 (1) Withhold from the obligor's disposable income and, within 7  
10 business days of the date the obligor is paid, send to the ~~clerk of~~  
11 ~~superior court or State collection and disbursement unit, as~~  
12 ~~specified in the notice, State Child Support Collection and~~  
13 ~~Disbursement Unit~~ the amount specified in the notice and the date  
14 the amount was withheld, but in no event more than the amount  
15 allowed by G.S. 110-136.6; however, if a lesser amount of  
16 disposable income is available for any pay period, the payor shall  
17 either: (a)

18 a. ~~compute~~ Compute, and send the appropriate amount to the  
19 ~~clerk of court, State Child Support Collection and~~  
20 ~~Disbursement Unit~~, using the percentages as provided in  
21 ~~G.S. 110-136.6; 110-136.6; or (b)~~

22 b. ~~request~~ Request the initiating party to inform the payor of  
23 the proper amount to be withheld for that period;

24 (2) Continue withholding until further notice from the IV-D agency,  
25 the clerk of superior court, or the State ~~collection and~~  
26 ~~disbursement unit; Child Support Collection and Disbursement~~  
27 ~~Unit;~~

28 (3) Withhold for child support before withholding pursuant to any  
29 other legal process under State law against the same disposable  
30 income;

31 (4) Begin withholding from the first payment due the obligor in the  
32 first pay period that occurs 14 days following the date the notice of  
33 the obligation to withhold was served on the payor;

34 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior  
35 court or the State ~~collection and disbursement unit~~ Child Support  
36 Collection and Disbursement Unit in a non-IV-D case, in writing:

37 a. If there are one or more orders of child support withholding  
38 for the obligor;

39 a1. If there are one or more orders of alimony or postseparation  
40 support withholding for the obligor;

41 b. When the obligor terminates employment or otherwise  
42 ceases to be entitled to disposable income from the payor,  
43 and provide the obligor's last known address, and the name  
44 and address of his new employer, if known;

c. Of the payor's inability to comply with the withholding for any reason; and

(6) Cooperate fully with the initiating party in the verification of the amount of the obligor's disposable income."

Section 35. G.S. 110-136.8(d) reads as rewritten:

"(d) The payor may combine amounts withheld from obligors' disposable incomes in a single payment to ~~each clerk of superior court~~ the State Child Support Collection and Disbursement Unit if the payor separately identifies by name and case number the portion of the single payment attributable to each individual obligor and the date that each payment was withheld from the obligor's disposable income."

Section 36. G.S. 110-136.9 reads as rewritten:

**"§ 110-136.9. Payment of withheld funds.**

In ~~IV-D~~ all cases, ~~when required by federal or State law or regulations or by court order, the clerk of superior court shall transmit payments received from payors to the Department of Health and Human Services for appropriate distribution. In all other cases, unless a court order requires otherwise, the clerk of superior court shall transmit the payments to the custodial parent.~~ the State Child Support Collection and Disbursement Unit shall distribute payments received from payors to the appropriate recipient."

Section 37. G.S. 110-139(f) reads as rewritten:

"(f) There is established the State Child Support Collection and Disbursement Unit. The duties of the Unit shall be the collection and disbursement of payments under support orders for:

(1) ~~All IV-D cases, and~~

(2) ~~All non-IV-D cases in which the support order was initially issued in this State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to income withholding.~~

for all cases. The Department may administer and operate the Unit or may contract with another State or private entity for the administration and operation of the Unit."

Section 38. G.S. 15A-1344.1 reads as rewritten:

**"§ 15A-1344.1. Procedure to insure payment of child support.**

(a) When the court requires, as a condition of supervised or unsupervised probation, that a defendant support his children, the court may order at any time that support payments be made to the ~~clerk of court~~ State Child Support Collection and Disbursement Unit for remittance to the party entitled to receive the payments. For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply.

(b) After entry of such an order by the court, the clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court and the State Child Support Collection and Disbursement Unit of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a defendant failing to inform the court and the State Child

1 Support Collection and Disbursement Unit of a change of address within reasonable  
2 period of time may be held in violation of probation.

3 (d) When a defendant in a non-IV-D case, as defined in G.S. 110-129, fails to  
4 make required payments of child support and is in arrears, upon notification by the  
5 State Child Support Collection and Disbursement Unit the clerk of superior court  
6 may mail by regular mail to the last known address of the defendant a notice of  
7 delinquency ~~which shall set~~ that sets out the amount of child support currently due  
8 and ~~which shall demand~~ that demands immediate payment of ~~said~~ the amount.  
9 Failure to receive the delinquency notice ~~shall~~ is not be a defense in any probation  
10 violation hearing or other proceeding thereafter. If the arrearage is not paid in full  
11 within 21 days after the mailing of the delinquency notice, or is not paid within 30  
12 days after the defendant becomes delinquent if the clerk has elected not to send a  
13 delinquency notice, the clerk shall certify the amount due to the district attorney and  
14 probation officer, who shall initiate proceedings for revocation of probation pursuant  
15 to Article 82 of Chapter 15A or make a motion in the criminal case for income  
16 withholding pursuant to G.S. 110-136.5 or both.

17 When a defendant in a IV-D case, as defined in G.S. 110-129, fails to make  
18 required payments of child support and is in arrears, at the request of the IV-D  
19 obligee the clerk shall certify the amount due to the district attorney and probation  
20 officer, who shall initiate proceedings for revocation of probation pursuant to Article  
21 82 of Chapter 15A or make a motion in the criminal case for income withholding  
22 pursuant to G.S. 110-136.5 or both."  
23

### 24 **PART III. EFFECTIVE DATES.**

25 Section 39. This act becomes effective October 1, 1999. The mandatory  
26 sanctions under G.S. 110-142.2(b), as amended by this act, apply when an obligor is  
27 adjudicated to be in civil or criminal contempt for a third or subsequent time after  
28 this act becomes effective.

29 Part I of this act becomes effective only if the 1999 General Assembly  
30 (1999 Regular Session) does not appropriate to the Department of Health and Human  
31 Services the sum of two million four hundred ninety-six thousand five hundred and  
32 ninety-one dollars (\$2,496,591) for fiscal year 1999-2000 and the sum of three million  
33 three hundred twenty-eight thousand seven hundred and ninety-one dollars  
34 (\$3,328,791) for fiscal year 2000-2001 for the administrative cost of receiving and  
35 disbursing child support payments in non-IV-D cases established prior to January 1,  
36 1994. If the General Assembly does not appropriate the funds to the Department of  
37 Health and Human Services, Part I becomes effective. Part II of this act becomes  
38 effective only if the 1999 General Assembly (1999 Regular Session) appropriates to  
39 the Department of Health and Human Services the sum of two million four hundred  
40 ninety-six thousand five hundred and ninety-one dollars (\$2,496,591) for fiscal year  
41 1999-2000 and the sum of three million three hundred twenty-eight thousand seven  
42 hundred and ninety-one dollars (\$3,328,791) for fiscal year 2000-2001 for the  
43 administrative cost of receiving and disbursing child support payments in non-IV-D  
44 cases established prior to January 1, 1994. If the General Assembly appropriates the

- 1 funds to the Department of Health and Human Services, Part II becomes effective.
- 2 This act does not obligate the General Assembly to appropriate funds.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

H302-PCSSE-001

PROPOSED SENATE COMMITTEE SUBSTITUTE

HOUSE BILL 302

THIS IS A DRAFT 18-MAY-99 16:32:53

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Enhance Child Support Enforce./AB.

(public)

Sponsors:

Referred to:

March 4, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD SUPPORT  
3 ENFORCEMENT.  
4 The General Assembly of North Carolina enacts:  
5  
6 PART I. ENHANCE CHILD SUPPORT ENFORCEMENT.  
7 Section 1. G.S. 110-132(a), as amended by Section 1 of  
8 S.L. 1998-17, reads as rewritten:  
9 "(a) In lieu of or in conclusion of any legal proceeding  
10 instituted to establish paternity, the written acknowledgment of  
11 paternity executed by the putative father of the dependent child  
12 when accompanied by a written affirmation of paternity executed  
13 and sworn to by the mother of the dependent child shall  
14 constitute an admission of ~~paternity~~, paternity and shall have  
15 the same legal effect as a judgment of paternity for the purpose  
16 of establishing a child support obligation, subject to the right  
17 of either signatory to rescind within the earlier of:  
18 (1) 60 days of the date the document is executed, or  
19 (2) The date of entry of an order establishing  
20 paternity or an order for the payment of child  
21 support.

1 In order to rescind, a challenger must request the district  
2 court to order the rescission and to include in the order specific  
3 findings of fact that the request for rescission was filed with the  
4 clerk of court within 60 days of the signing of the document. The  
5 court must also find that all parties, including the child  
6 support enforcement agency, if appropriate, have been served in  
7 accordance with Rule 4 of the North Carolina Rules of Civil  
8 Procedure. In the event the court orders rescission and the  
9 putative father is thereafter found not to be the father of the  
10 child, then the clerk of court shall send a copy of the order of  
11 rescission to the State Registrar of Vital Statistics. Upon receipt  
12 of an order of rescission, the State Registrar shall remove the  
13 putative father's name from the birth certificate. In the event  
14 that the putative father defaults or fails to present or  
15 prosecute the issue of paternity, the trial court shall find the  
16 putative father to be the biological father as a matter of law.

17 After 60 days have elapsed, execution of the document may be  
18 challenged in court only upon the basis of fraud, duress,  
19 mistake, or excusable neglect. The burden of proof shall be on  
20 the challenging party, and the legal responsibilities, including  
21 child support obligations, of any signatory arising from the  
22 executed documents may not be suspended during the challenge  
23 except for good cause shown.

24 A written agreement to support the child by periodic payments,  
25 which may include provision for reimbursement for medical  
26 expenses incident to the pregnancy and the birth of the child,  
27 accrued maintenance and reasonable expense of prosecution of the  
28 paternity action, when acknowledged as provided herein, filed  
29 with, and approved by a judge of the district court at any time,  
30 shall have the same force and effect as an order of support  
31 entered by that court, and shall be enforceable and subject to  
32 modification in the same manner as is provided by law for orders  
33 of the court in such cases. The written affirmation shall contain  
34 the social security number of the person executing the  
35 affirmation, and the written acknowledgment shall contain the  
36 social security number of the person executing the  
37 acknowledgment. Voluntary agreements to support shall contain the  
38 social security number of each of the parties to the agreement.  
39 The written affirmations, acknowledgments and agreements to  
40 support shall be sworn to before a certifying officer or notary  
41 public or the equivalent or corresponding person of the state,  
42 territory, or foreign country where the affirmation,  
43 acknowledgment, or agreement is made, and shall be binding on the  
44 person executing the same whether the person is an adult or a

1 minor. The child support enforcement agency shall ensure that the  
2 mother and putative father are given oral and written notice of  
3 the legal consequences and responsibilities arising from the  
4 signing of an acknowledgement of paternity, and of any  
5 alternatives to the execution of an acknowledgment or affirmation  
6 of paternity. The mother shall not be excused from making the  
7 affirmation on the grounds that it may tend to disgrace or  
8 incriminate her; nor shall she thereafter be prosecuted for any  
9 criminal act involved in the conception of the child as to whose  
10 paternity she makes affirmation."

11 Section 2. G.S. 110-142.2(b), as amended by Section 1  
12 of S.L. 1998-17, reads as rewritten:

13 "(b) Upon finding that the individual has willfully failed to  
14 comply with the child support order or with a subpoena issued  
15 pursuant to child support proceedings, and that the obligor is at  
16 least 90 days in arrears, or upon a finding that an individual  
17 subject to a subpoena issued pursuant to child support or  
18 paternity establishment proceedings has failed to comply with the  
19 subpoena, the court may enter an order instituting the sanctions  
20 as provided in subsection (a) of this section. If an individual  
21 is adjudicated to be in civil or criminal contempt for a third or  
22 subsequent time for failure to comply with a child support order,  
23 the court shall enter an order instituting any one or more of the  
24 sanctions, if applicable, as provided in subsection (a) of this  
25 section. The court may stay the effectiveness of the sanctions  
26 upon conditions requiring the obligor to make full payment of the  
27 delinquency over time. Any court-ordered payment plan under this  
28 subsection shall require the individual to extinguish the  
29 delinquency within a reasonable period of time. In determining  
30 the amount to be applied to the delinquency, the court shall  
31 consider the amount of the debt and the individual's financial  
32 ability to pay. The payment shall not exceed the limits under  
33 G.S. 110-136.6(b). The individual shall make an immediate  
34 initial payment representing at least five percent (5%) of the  
35 total delinquency or five hundred dollars (\$500.00), whichever is  
36 less. Any ~~such~~ stay of an order under this subsection shall also  
37 be conditioned upon the obligor's maintenance of current child  
38 support. The court may stay the effectiveness of the sanctions  
39 against an individual subject to a subpoena issued pursuant to  
40 child support or paternity establishment proceedings upon a  
41 finding that the individual has complied with or is no longer  
42 subject to the subpoena. Upon entry of an order pursuant to this  
43 section that is not stayed, the individual shall surrender any  
44 licenses revoked by the court's order to the child support

1 enforcement agency and the agency shall forward a report to the  
2 appropriate licensing authority within 30 days of the order."

3 Section 3. G.S. 50-13.4(c) reads as rewritten:

4 "(c) Payments ordered for the support of a minor child shall  
5 be in such amount as to meet the reasonable needs of the child  
6 for health, education, and maintenance, having due regard to the  
7 estates, earnings, conditions, accustomed standard of living of  
8 the child and the parties, the child care and homemaker  
9 contributions of each party, and other facts of the particular  
10 case. Payments ordered for the support of a minor child shall be  
11 on a monthly basis, due and payable on the first day of each  
12 month. The requirement that orders be established on a monthly  
13 basis does not affect the availability of garnishment of  
14 disposable earnings based on an obligor's pay period.

15 The court shall determine the amount of child support payments  
16 by applying the presumptive guidelines established pursuant to  
17 subsection (c1). However, upon request of any party, the Court  
18 shall hear evidence, and from the evidence, find the facts  
19 relating to the reasonable needs of the child for support and the  
20 relative ability of each parent to provide support. If, after  
21 considering the evidence, the Court finds by the greater weight  
22 of the evidence that the application of the guidelines would not  
23 meet or would exceed the reasonable needs of the child  
24 considering the relative ability of each parent to provide  
25 support or would be otherwise unjust or inappropriate the Court  
26 may vary from the guidelines. If the court orders an amount other  
27 than the amount determined by application of the presumptive  
28 guidelines, the court shall make findings of fact as to the  
29 criteria that justify varying from the guidelines and the basis  
30 for the amount ordered.

31 Payments ordered for the support of a child shall terminate  
32 when the child reaches the age of 18 except:

33 (1) If the child is otherwise emancipated, payments  
34 shall terminate at that time;

35 (2) If the child is still in primary or secondary  
36 school when the child reaches age 18, support  
37 payments shall continue until the child graduates,  
38 otherwise ceases to attend school on a regular  
39 basis, fails to make satisfactory academic progress  
40 towards graduation, or reaches age 20, whichever  
41 comes first, unless the court in its discretion  
42 orders that payments cease at age 18 or prior to  
43 high school graduation.

1 In the case of graduation, or attaining age 20, payments shall  
2 terminate without order by the court, subject to the right of the  
3 party receiving support to show, upon motion and with notice to  
4 the opposing party, that the child has not graduated or attained  
5 the age of 20."

6 Section 4. G.S. 52C-5-501(a), as amended by Section 1  
7 of S.L. 1998-17, reads as rewritten:

8 "(a) An income-withholding order issued in another state may  
9 be sent to the person or entity defined or identified as the  
10 obligor's employer under the income-withholding provisions of  
11 Chapter 50 or Chapter 110 of the General Statutes, as applicable,  
12 without first filing a petition or comparable pleading or  
13 registering the order with a tribunal of this State. In the event  
14 that an obligor is receiving unemployment compensation benefits  
15 from the North Carolina Employment Security Commission, in  
16 accordance with G.S. 96-17, an income-withholding order issued in  
17 another state may be sent to the Employment Security Commission  
18 without first filing a petition or comparable pleading or  
19 registering the order with a tribunal of this State. Upon  
20 receipt of the order, the employer or the Employment Security  
21 Commission shall:

- 22 (1) Treat an income-withholding order issued in another  
23 state which appears regular on its face as if it  
24 had been issued by a tribunal of this State;
- 25 (2) Immediately provide a copy of the order to the  
26 obligor; and
- 27 (3) Distribute the funds as directed in the withholding  
28 order. The Employment Security Commission shall  
29 not withhold an amount to exceed twenty-five  
30 percent (25%) of the unemployment compensation  
31 benefits."

32 Section 5. G.S. 110-136.2(f) reads as rewritten:

33 "(f) In the absence of a voluntary assignment of unemployment  
34 compensation benefits, the Department of Health and Human  
35 Services shall implement income withholding as provided in this  
36 Article for IV-D cases. The amount withheld shall not exceed  
37 twenty-five percent (25%) of the unemployment compensation  
38 benefits. Notice of the requirement to withhold shall be served  
39 upon the Employment Security Commission and payment shall be made  
40 by the Employment Security Commission directly to the Department  
41 of Health and Human Services pursuant to G.S. ~~96-17~~, 96-17 or to  
42 another state under G.S. 52C-5-501. Except for the requirement to  
43 withhold from unemployment compensation benefits and the  
44 forwarding of withheld funds to the Department of Health and

1 ~~Human Services,~~ Services or to another state under G.S. 52C-5-  
2 501, the Employment Security Commission is exempt from the  
3 provisions of G.S. 110-136.8."

4 Section 6. The General Statutes are amended by adding a  
5 new section to read:

6 "§ 110-139.3. High-volume, automated administrative enforcement  
7 in interstate cases (AEI).

8 Upon request of another state, the Department of Health and  
9 Human Services shall use automated data processing to search  
10 State databases and determine if information is available  
11 regarding a parent who owes a child support obligation and shall  
12 seize identified assets using the same techniques as used in  
13 intrastate cases. Any request by another state to enforce  
14 support orders shall certify the amount of each obligor's debt  
15 and that appropriate due process requirements have been met by  
16 the requesting state with respect to each obligor. The  
17 Department of Health and Human Services shall likewise transmit  
18 to other states requests for assistance in enforcing support  
19 orders through high-volume, automated administrative enforcement  
20 where appropriate."

21 Section 7. G.S. 108A-69, as amended by Section 1 of  
22 S.L. 1998-17, reads as rewritten:

23 "§ 108A-69. Employer obligations.

24 (a) As used in this section and in G.S. 108A-70:

25 (1) 'Health benefit plan' means an accident and health  
26 insurance policy or certificate; a nonprofit  
27 hospital or medical service corporation contract; a  
28 health maintenance organization subscriber  
29 contract; a plan provided by a multiple employer  
30 welfare arrangement; the Teachers' and State  
31 Employees' Comprehensive Major Medical Plan under  
32 Chapter 135 of the General Statutes; or a plan  
33 provided by another benefit arrangement. 'Health  
34 benefit plan' does not mean a Medicare supplement  
35 policy as defined in G.S. 58-54-1(5).

36 (2) 'Health insurer' means any health insurance company  
37 subject to Articles 1 through 63 of Chapter 58 of  
38 the General Statutes, including a multiple employee  
39 welfare arrangement, and any corporation subject to  
40 Articles 65 and 67 of Chapter 58 of the General  
41 Statutes; ~~and means~~ a group health plan, as defined  
42 in Section 607(1) of the Employee Retirement Income  
43 Security Act of ~~1974~~ 1974; and the Teachers' and

1                   State Employees' Comprehensive Major Medical Plan  
2                   under Chapter 135 of the General Statutes.

3       (b) If a parent is required by a court or administrative order  
4 to provide health benefit plan coverage for a child, and the  
5 parent is eligible for family health benefit plan coverage  
6 through an ~~employer doing business in this State~~, employer, the  
7 employer:

- 8           (1) Must allow the parent to enroll, under family  
9           coverage, the child if the child would be otherwise  
10          eligible for coverage without regard to any  
11          enrollment season restrictions.
- 12          (2) Must enroll the child under family coverage upon  
13          application of the child's other parent or upon  
14          receipt of notice from the Department of Health and  
15          Human Services in connection with its  
16          administration of the Medical Assistance or Child  
17          Support Enforcement Program if the parent is  
18          enrolled but fails to make application to obtain  
19          coverage for the child.
- 20          (3) May not disenroll or eliminate coverage of the  
21          child unless:
  - 22               a. The employer is provided satisfactory written  
23               evidence that:
    - 24                   1. The court or administrative order is no  
25                   longer in effect; or
    - 26                   2. The child is or will be enrolled in  
27                   comparable health benefit plan coverage  
28                   that will take effect not later than the  
29                   effective date of disenrollment; or
  - 30               b. The employer has eliminated family health  
31               benefit plan coverage for all of its  
32               employees.
- 33          (4) Must withhold from the employee's compensation the  
34          employee's share, if any, of premiums for health  
35          benefit plan coverage, not to exceed the maximum  
36          amount permitted to be withheld under section  
37          303(b) of the federal Consumer Credit Protection  
38          Act, as amended; and must pay this amount to the  
39          health insurer; subject to regulations, if any,  
40          adopted by the Secretary of the U.S. Department of  
41          Health and Human Services."

42               Section 8. G.S. 58-51-115(a) reads as rewritten:

43       "(a) As used in this section and in G.S. 58-51-120 and G.S.  
44 58-51-125:

1           (1) 'Health benefit plan' means any accident and health  
2 insurance policy or certificate; a nonprofit  
3 hospital or medical service corporation contract; a  
4 health maintenance organization subscriber  
5 contract; a plan provided by a multiple employer  
6 welfare arrangement; the Teachers' and State  
7 Employees' Comprehensive Major Medical Plan under  
8 Chapter 135 of the General Statutes; or a plan  
9 provided by another benefit arrangement. 'Health  
10 benefit plan' does not mean a Medicare supplement  
11 policy as defined in G.S. 58-54-1(5).

12           (2) 'Health insurer' means any health insurance company  
13 subject to Articles 1 through 63 of this Chapter,  
14 including a multiple employee welfare arrangement,  
15 and any corporation subject to Articles 65 and 67  
16 of this Chapter; ~~and means~~ a group health plan, as  
17 defined in section 607(1) of the Employee  
18 Retirement Income Security Act of ~~1974~~ 1974; and  
19 the Teachers' and State Employees' Comprehensive  
20 Major Medical Plan under Chapter 135 of the General  
21 Statutes."

22           Section 9. G.S. 15A-1344.1(a) reads as rewritten:

23       "(a) When the court requires, as a condition of supervised or  
24 unsupervised probation, that a defendant support his children,  
25 the court may order at any time that support payments be made to  
26 the clerk of court for remittance to the party entitled to  
27 receive the payments. For child support orders initially entered  
28 on or after January 1, 1994, the immediate income withholding  
29 provisions of G.S. 110-136.5(c1) ~~shall~~ apply. If child support  
30 is to be paid through income withholding, the payments shall be  
31 made in accordance with G.S. 110-139(f)."

32           Section 10. G.S. 50-13.9(b) reads as rewritten:

33       "(b) After entry of such an order by the court, the clerk of  
34 superior court shall transmit child support payments that are  
35 made to the clerk in IV-D cases to the Department of Health and  
36 Human Services for appropriate distribution. Pursuant to G.S.  
37 110-139(f), amounts withheld by employers in IV-D and in non-IV-D  
38 cases shall be sent directly from the employer to the State Child  
39 Support Collection and Disbursement Unit for disbursement to the  
40 custodial parent or other party entitled to receive them, unless  
41 a court order requires otherwise. In all other cases, non-IV-D  
42 cases in which wage withholding is not in effect, the clerk shall  
43 transmit the payments to the custodial parent or other party

1 entitled to receive them, unless a court order requires  
2 otherwise."

3 Section 11. G.S. 50-13.9(b2) reads as rewritten:

4 "(b2) In a non-IV-D case:

5 (1) The clerk of court shall have the responsibility  
6 and authority for monitoring the obligor's  
7 compliance with all child support orders in the  
8 case and for initiating any enforcement procedures  
9 that it considers appropriate. In non-IV-D cases  
10 subject to income withholding, the State Child  
11 Support Collection and Disbursement Unit shall  
12 notify the clerk of court of all payments made in  
13 non-IV-D income-withholding cases so that the clerk  
14 of court can initiate enforcement proceedings as  
15 provided in subsection (d) of this section.

16 (2) The clerk of court shall maintain all official  
17 records in the case.

18 (3) The clerk of court shall maintain any other records  
19 needed to monitor the obligor's compliance with or  
20 to enforce the child support orders in the case,  
21 including records showing the amount of each  
22 payment of child support received from or on behalf  
23 of the obligor, along with the dates on which each  
24 payment was received."

25 Section 12. G.S. 110-36.3 is amended by adding a new  
26 section to read:

27 "(d1) Employment Verifications. -- For the purpose of  
28 establishing or modifying a child support order, the amount of  
29 the obligor's gross income may be established by a written  
30 statement signed by the obligor's employer or the employer's  
31 designee or an Employee Verification form produced by the  
32 Automated Collections Tracking System that has been completed and  
33 signed by the obligor's employer or the employer's designee. A  
34 written statement signed by the employer of the obligor or the  
35 employer's designee that sets forth an obligor's gross income, as  
36 well as, an Employee Verification form signed by the obligor's  
37 employer or the employer's designee shall be admissible evidence  
38 in any action establishing or modifying a child support order."

39 Section 13. G.S. 110-136.8(b), as amended by Section 1  
40 of S.L. 1998-17 and Section 7 of S.L. 1998-176, reads as  
41 rewritten:

42 "(b) Payor's responsibilities. A payor who has been properly  
43 served with a notice to withhold is required to:

- 1           (1) Withhold from the obligor's disposable income and,  
2           within 7 business days of the date the obligor is  
3           paid, send to the ~~clerk of superior court or State~~  
4           ~~collection and disbursement unit, Child Support~~  
5           Collection and Disbursement Unit, as specified in  
6           the notice, the amount specified in the notice and  
7           the date the amount was withheld, but in no event  
8           more than the amount allowed by G.S. 110-136.6;  
9           however, if a lesser amount of disposable income is  
10          available for any pay period, the payor shall  
11          either: (a) compute and send the appropriate amount  
12          to the ~~clerk of court, State Child Support~~  
13          Collection and Disbursement Unit, using the  
14          percentages as provided in G.S. 110-136.6, or (b)  
15          request the initiating party to inform the payor of  
16          the proper amount to be withheld for that period;
- 17          (2) Continue withholding until further notice from the  
18          IV-D agency, the clerk of superior court, or the  
19          State collection and disbursement unit;
- 20          (3) Withhold for child support before withholding  
21          pursuant to any other legal process under State law  
22          against the same disposable income;
- 23          (4) Begin withholding from the first payment due the  
24          obligor in the first pay period that occurs 14 days  
25          following the date the notice of the obligation to  
26          withhold was served on the payor;
- 27          (5) Promptly notify the obligee in a IV-D case, or the  
28          clerk of superior court or the State collection and  
29          disbursement unit in a non-IV-D case, in writing:
  - 30           a. If there are one or more orders of child  
31           support withholding for the obligor;
  - 32           al. If there are one or more orders of alimony or  
33           postseparation support withholding for the  
34           obligor;
  - 35           b. When the obligor terminates employment or  
36           otherwise ceases to be entitled to disposable  
37           income from the payor, and provide the  
38           obligor's last known address, and the name and  
39           address of his new employer, if known;
  - 40           c. Of the payor's inability to comply with the  
41           withholding for any reason; and
- 42          (6) Cooperate fully with the initiating party in the  
43          verification of the amount of the obligor's  
44          disposable income."

1           Section 14. G.S. 110-136.8(d) reads as rewritten:

2       "(d) The payor may combine amounts withheld from obligors'  
3 disposable incomes in a single payment to ~~each clerk of superior~~  
4 ~~court~~ the State Child Support Collection and Disbursement Unit if  
5 the payor separately identifies by name and case number the  
6 portion of the single payment attributable to each individual  
7 obligor and the date that each payment was withheld from the  
8 obligor's disposable income."

9           Section 15. G.S. 110-136.9 reads as rewritten:

10       "§ 110-136.9. Payment of withheld funds.

11       In IV-D ~~cases~~, cases and in non-IV-D cases in which the support  
12 order was initially issued in this State on or after January 1,  
13 1994, and in which the income of the noncustodial parent is  
14 subject to income withholding, when required by federal or State  
15 law or regulations or by court order, the ~~clerk of superior court~~  
16 State Child Support Collection and Disbursement Unit shall  
17 ~~transmit~~ distribute payments received from ~~payors to the~~  
18 ~~Department of Health and Human Services for appropriate~~  
19 ~~distribution.~~ payors. In all other cases, unless a court order  
20 requires otherwise, the clerk of superior court shall transmit  
21 the payments to the custodial parent."

22       PART II. ENHANCE CHILD SUPPORT ENFORCEMENT- APPROPRIATION  
23 REQUIRED.

24           Section 16. G.S. 110-132(a), as amended by Section 1 of  
25 S.L. 1998-17, reads as rewritten:

26       "(a) In lieu of or in conclusion of any legal proceeding  
27 instituted to establish paternity, the written acknowledgment of  
28 paternity executed by the putative father of the dependent child  
29 when accompanied by a written affirmation of paternity executed  
30 and sworn to by the mother of the dependent child shall  
31 constitute an admission of ~~paternity~~, paternity and shall have  
32 the same legal effect as a judgment of paternity for the purpose  
33 of establishing a child support obligation, subject to the right  
34 of either signatory to rescind within the earlier of:

35               (1) 60 days of the date the document is executed, or

36               (2) The date of entry of an order establishing  
37 paternity or an order for the payment of child  
38 support.

39       In order to rescind, a challenger must request the district  
40 court to order the rescission and to include in the order specific  
41 findings of fact that the request for rescission was filed with the  
42 clerk of court within 60 days of the signing of the document. The  
43 court must also find that all parties, including the child  
44 support enforcement agency, if appropriate, have been served in

1 accordance with Rule 4 of the North Carolina Rules of Civil  
2 Procedure. In the event the court orders rescision and the  
3 putative father is thereafter found not to be the father of the  
4 child, then the clerk of court shall send a copy of the order of  
5 rescision to the State Registrar of Vital Statistics. Upon receipt  
6 of an order of rescision, the State Registrar shall remove the  
7 putative father's name from the birth certificate. In the event  
8 that the putative father defaults or fails to present or  
9 prosecute the issue of paternity, the trial court shall find the  
10 putative father to be the biological father as a matter of law.

11 After 60 days have elapsed, execution of the document may be  
12 challenged in court only upon the basis of fraud, duress,  
13 mistake, or excusable neglect. The burden of proof shall be on  
14 the challenging party, and the legal responsibilities, including  
15 child support obligations, of any signatory arising from the  
16 executed documents may not be suspended during the challenge  
17 except for good cause shown.

18 A written agreement to support the child by periodic payments,  
19 which may include provision for reimbursement for medical  
20 expenses incident to the pregnancy and the birth of the child,  
21 accrued maintenance and reasonable expense of prosecution of the  
22 paternity action, when acknowledged as provided herein, filed  
23 with, and approved by a judge of the district court at any time,  
24 shall have the same force and effect as an order of support  
25 entered by that court, and shall be enforceable and subject to  
26 modification in the same manner as is provided by law for orders  
27 of the court in such cases. The written affirmation shall contain  
28 the social security number of the person executing the  
29 affirmation, and the written acknowledgment shall contain the  
30 social security number of the person executing the  
31 acknowledgment. Voluntary agreements to support shall contain the  
32 social security number of each of the parties to the agreement.  
33 The written affirmations, acknowledgments and agreements to  
34 support shall be sworn to before a certifying officer or notary  
35 public or the equivalent or corresponding person of the state,  
36 territory, or foreign country where the affirmation,  
37 acknowledgment, or agreement is made, and shall be binding on the  
38 person executing the same whether the person is an adult or a  
39 minor. The child support enforcement agency shall ensure that the  
40 mother and putative father are given oral and written notice of  
41 the legal consequences and responsibilities arising from the  
42 signing of an acknowledgement of paternity, and of any  
43 alternatives to the execution of an acknowledgment or affirmation  
44 of paternity. The mother shall not be excused from making the

1 affirmation on the grounds that it may tend to disgrace or  
2 incriminate her; nor shall she thereafter be prosecuted for any  
3 criminal act involved in the conception of the child as to whose  
4 paternity she makes affirmation."

5       Section 17. G.S. 110-142.2(b), as amended by Section 1  
6 of S.L. 1998-17, reads as rewritten:

7       "(b) Upon finding that the individual has willfully failed to  
8 comply with the child support order or with a subpoena issued  
9 pursuant to child support proceedings, and that the obligor is at  
10 least 90 days in arrears, or upon a finding that an individual  
11 subject to a subpoena issued pursuant to child support or  
12 paternity establishment proceedings has failed to comply with the  
13 subpoena, the court may enter an order instituting the sanctions  
14 as provided in subsection (a) of this section. If an individual  
15 is adjudicated to be in civil or criminal contempt for a third or  
16 subsequent time for failure to comply with a child support order,  
17 the court shall enter an order instituting any one or more of the  
18 sanctions, if applicable, as provided in subsection (a) of this  
19 section. The court may stay the effectiveness of the sanctions  
20 upon conditions requiring the obligor to make full payment of the  
21 delinquency over time. Any court-ordered payment plan under this  
22 subsection shall require the individual to extinguish the  
23 delinquency within a reasonable period of time. In determining  
24 the amount to be applied to the delinquency, the court shall  
25 consider the amount of the debt and the individual's financial  
26 ability to pay. The payment shall not exceed the limits under  
27 G.S. 110-136.6(b). The individual shall make an immediate  
28 initial payment representing at least five percent (5%) of the  
29 total delinquency or five hundred dollars (\$500.00), whichever is  
30 less. Any ~~such~~ stay of an order under this subsection shall also  
31 be conditioned upon the obligor's maintenance of current child  
32 support. The court may stay the effectiveness of the sanctions  
33 against an individual subject to a subpoena issued pursuant to  
34 child support or paternity establishment proceedings upon a  
35 finding that the individual has complied with or is no longer  
36 subject to the subpoena. Upon entry of an order pursuant to this  
37 section that is not stayed, the individual shall surrender any  
38 licenses revoked by the court's order to the child support  
39 enforcement agency and the agency shall forward a report to the  
40 appropriate licensing authority within 30 days of the order."

41       Section 18. G.S. 50-13.4(c) reads as rewritten:

42       "(c) Payments ordered for the support of a minor child shall  
43 be in such amount as to meet the reasonable needs of the child  
44 for health, education, and maintenance, having due regard to the

1 estates, earnings, conditions, accustomed standard of living of  
2 the child and the parties, the child care and homemaker  
3 contributions of each party, and other facts of the particular  
4 case. Payments ordered for the support of a minor child shall be  
5 on a monthly basis, due and payable on the first day of each  
6 month. The requirement that orders be established on a monthly  
7 basis does not affect the availability of garnishment of  
8 disposable earnings based on an obligor's pay period.

9 The court shall determine the amount of child support payments  
10 by applying the presumptive guidelines established pursuant to  
11 subsection (c1). However, upon request of any party, the Court  
12 shall hear evidence, and from the evidence, find the facts  
13 relating to the reasonable needs of the child for support and the  
14 relative ability of each parent to provide support. If, after  
15 considering the evidence, the Court finds by the greater weight  
16 of the evidence that the application of the guidelines would not  
17 meet or would exceed the reasonable needs of the child  
18 considering the relative ability of each parent to provide  
19 support or would be otherwise unjust or inappropriate the Court  
20 may vary from the guidelines. If the court orders an amount other  
21 than the amount determined by application of the presumptive  
22 guidelines, the court shall make findings of fact as to the  
23 criteria that justify varying from the guidelines and the basis  
24 for the amount ordered.

25 Payments ordered for the support of a child shall terminate  
26 when the child reaches the age of 18 except:

- 27 (1) If the child is otherwise emancipated, payments  
28 shall terminate at that time;  
29 (2) If the child is still in primary or secondary  
30 school when the child reaches age 18, support  
31 payments shall continue until the child graduates,  
32 otherwise ceases to attend school on a regular  
33 basis, fails to make satisfactory academic progress  
34 towards graduation, or reaches age 20, whichever  
35 comes first, unless the court in its discretion  
36 orders that payments cease at age 18 or prior to  
37 high school graduation.

38 In the case of graduation, or attaining age 20, payments shall  
39 terminate without order by the court, subject to the right of the  
40 party receiving support to show, upon motion and with notice to  
41 the opposing party, that the child has not graduated or attained  
42 the age of 20."

43 Section 19. G.S. 50-13.4(d) reads as rewritten:

1    "(d) In non-IV-D cases, payments for the support of a minor  
2 child shall be ordered to be paid to the person having custody of  
3 the child or any other proper person, agency, organization or  
4 institution, or to the ~~court~~, State Child Support Collection and  
5 Disbursement Unit, for the benefit of the child. In IV-D cases,  
6 payments for the support of a minor child shall be ordered to be  
7 paid to the ~~court or other proper~~ State agency Child Support  
8 Collection and Disbursement Unit for the benefit of the child."

9           Section 20. G.S. 52C-5-501(a), as amended by Section 1  
10 of S.L. 1998-17, reads as rewritten:

11    "(a) An income-withholding order issued in another state may  
12 be sent to the person or entity defined or identified as the  
13 obligor's employer under the income-withholding provisions of  
14 Chapter 50 or Chapter 110 of the General Statutes, as applicable,  
15 without first filing a petition or comparable pleading or  
16 registering the order with a tribunal of this State. In the event  
17 that an obligor is receiving unemployment compensation benefits  
18 from the North Carolina Employment Security Commission, in  
19 accordance with G.S. 96-17, an income-withholding order issued in  
20 another state may be sent to the Employment Security Commission  
21 without first filing a petition or comparable pleading or  
22 registering the order with a tribunal of this State. Upon  
23 receipt of the order, the employer or the Employment Security  
24 Commission shall:

- 25           (1) Treat an income-withholding order issued in another  
26 state which appears regular on its face as if it  
27 had been issued by a tribunal of this State;  
28           (2) Immediately provide a copy of the order to the  
29 obligor; and  
30           (3) Distribute the funds as directed in the withholding  
31 order. The Employment Security Commission shall  
32 not withhold an amount to exceed twenty-five  
33 percent (25%) of the unemployment compensation  
34 benefits."

35           Section 21. G.S. 110-136.2(f) reads as rewritten:

36    "(f) In the absence of a voluntary assignment of unemployment  
37 compensation benefits, the Department of Health and Human  
38 Services shall implement income withholding as provided in this  
39 Article for IV-D cases. The amount withheld shall not exceed  
40 twenty-five percent (25%) of the unemployment compensation  
41 benefits. Notice of the requirement to withhold shall be served  
42 upon the Employment Security Commission and payment shall be made  
43 by the Employment Security Commission directly to the Department  
44 of Health and Human Services pursuant to G.S. ~~96-17~~, 96-17 or to

1 another state under G.S. 52C-5-501. Except for the requirement to  
2 withhold from unemployment compensation benefits and the  
3 forwarding of withheld funds to the Department of Health and  
4 Human Services, Services or to another state under G.S. 52C-5-  
5 501, the Employment Security Commission is exempt from the  
6 provisions of G.S. 110-136.8."

7           Section 22. The General Statutes are amended by adding  
8 a new section to read:

9 "§ 110-139.3. High-volume, automated administrative enforcement  
10 in interstate cases (AEI).

11 Upon request of another state, the Department of Health and  
12 Human Services shall use automated data processing to search  
13 State databases and determine if information is available  
14 regarding a parent who owes a child support obligation and shall  
15 seize identified assets using the same techniques as used in  
16 intrastate cases. Any request by another state to enforce  
17 support orders shall certify the amount of each obligor's debt  
18 and that appropriate due process requirements have been met by  
19 the requesting state with respect to each obligor. The  
20 Department of Health and Human Services shall likewise transmit  
21 to other states requests for assistance in enforcing support  
22 orders through high-volume, automated administrative enforcement  
23 where appropriate."

24           Section 23. G.S. 108A-69, as amended by Section 1 of  
25 S.L. 1998-17, reads as rewritten:

26 "§ 108A-69. Employer obligations.

27 (a) As used in this section and in G.S. 108A-70:

28           (1) 'Health benefit plan' means an accident and health  
29 insurance policy or certificate; a nonprofit  
30 hospital or medical service corporation contract; a  
31 health maintenance organization subscriber  
32 contract; a plan provided by a multiple employer  
33 welfare arrangement; the Teachers' and State  
34 Employees' Comprehensive Major Medical Plan under  
35 Chapter 135 of the General Statutes; or a plan  
36 provided by another benefit arrangement. 'Health  
37 benefit plan' does not mean a Medicare supplement  
38 policy as defined in G.S. 58-54-1(5).

39           (2) 'Health insurer' means any health insurance company  
40 subject to Articles 1 through 63 of Chapter 58 of  
41 the General Statutes, including a multiple employee  
42 welfare arrangement, and any corporation subject to  
43 Articles 65 and 67 of Chapter 58 of the General  
44 Statutes; ~~and means~~ a group health plan, as defined

1 in Section 607(1) of the Employee Retirement Income  
2 Security Act of ~~1974~~ 1974; and the Teachers' and  
3 State Employees' Comprehensive Major Medical Plan  
4 under Chapter 135 of the General Statutes.

5 (b) If a parent is required by a court or administrative order  
6 to provide health benefit plan coverage for a child, and the  
7 parent is eligible for family health benefit plan coverage  
8 through an ~~employer doing business in this State~~, employer, the  
9 employer:

10 (1) Must allow the parent to enroll, under family  
11 coverage, the child if the child would be otherwise  
12 eligible for coverage without regard to any  
13 enrollment season restrictions.

14 (2) Must enroll the child under family coverage upon  
15 application of the child's other parent or upon  
16 receipt of notice from the Department of Health and  
17 Human Services in connection with its  
18 administration of the Medical Assistance or Child  
19 Support Enforcement Program if the parent is  
20 enrolled but fails to make application to obtain  
21 coverage for the child.

22 (3) May not disenroll or eliminate coverage of the  
23 child unless:

24 a. The employer is provided satisfactory written  
25 evidence that:

26 1. The court or administrative order is no  
27 longer in effect; or

28 2. The child is or will be enrolled in  
29 comparable health benefit plan coverage  
30 that will take effect not later than the  
31 effective date of disenrollment; or

32 b. The employer has eliminated family health  
33 benefit plan coverage for all of its  
34 employees.

35 (4) Must withhold from the employee's compensation the  
36 employee's share, if any, of premiums for health  
37 benefit plan coverage, not to exceed the maximum  
38 amount permitted to be withheld under section  
39 303(b) of the federal Consumer Credit Protection  
40 Act, as amended; and must pay this amount to the  
41 health insurer; subject to regulations, if any,  
42 adopted by the Secretary of the U.S. Department of  
43 Health and Human Services."

44 Section 24. G.S. 58-51-115(a) reads as rewritten:

1     "(a) As used in this section and in G.S. 58-51-120 and G.S.  
2 58-51-125:

3             (1) 'Health benefit plan' means any accident and health  
4 insurance policy or certificate; a nonprofit  
5 hospital or medical service corporation contract; a  
6 health maintenance organization subscriber  
7 contract; a plan provided by a multiple employer  
8 welfare arrangement; the Teachers' and State  
9 Employees' Comprehensive Major Medical Plan under  
10 Chapter 135 of the General Statutes; or a plan  
11 provided by another benefit arrangement. 'Health  
12 benefit plan' does not mean a Medicare supplement  
13 policy as defined in G.S. 58-54-1(5).

14             (2) 'Health insurer' means any health insurance company  
15 subject to Articles 1 through 63 of this Chapter,  
16 including a multiple employee welfare arrangement,  
17 and any corporation subject to Articles 65 and 67  
18 of this Chapter; ~~and means~~ a group health plan, as  
19 defined in section 607(1) of the Employee  
20 Retirement Income Security Act of ~~1974~~, 1974; and  
21 the Teachers' and State Employees' Comprehensive  
22 Major Medical Plan under Chapter 135 of the General  
23 Statutes."

24             Section 25. G.S. 15A-1344.1(a) reads as rewritten:

25     "(a) When the court requires, as a condition of supervised or  
26 unsupervised probation, that a defendant support his children,  
27 the court may order at any time that support payments be made to  
28 the clerk of court for remittance to the party entitled to  
29 receive the payments. For child support orders initially entered  
30 on or after January 1, 1994, the immediate income withholding  
31 provisions of G.S. 110-136.5(c1) ~~shall~~ apply. If child support  
32 is to be paid through income withholding, the payments shall be  
33 made in accordance with G.S. 110-139(f)."

34             Section 26. G.S. 50-13.9(a) reads as rewritten:

35     "(a) Upon its own motion or upon motion of either party, the  
36 court may order at any time that support payments be made to the  
37 ~~clerk of court~~ State Child Support Collection and Disbursement  
38 Unit for remittance to the party entitled to receive the  
39 payments. For child support orders initially entered on or after  
40 January 1, 1994, the immediate income withholding provisions of  
41 G.S. 110-136.5(c1) ~~shall~~ apply."

42             Section 27. G.S. 50-13.9(b) reads as rewritten:

43     "(b) After entry of ~~such~~ an order by the ~~court~~, court under  
44 subsection (a) of this section, the ~~clerk of superior court~~ State

1 Child Support Collection and Disbursement Unit shall transmit  
2 child support payments that are made to ~~the clerk in IV-D cases~~  
3 ~~to the Department of Health and Human Services for appropriate~~  
4 ~~distribution. In all other cases, the clerk shall transmit the~~  
5 ~~payments~~ it to the custodial parent or other party entitled to  
6 receive them, unless a court order requires otherwise."

7 Section 28. G.S. 50-13.9(b2) reads as rewritten:

8 "(b2) In a non-IV-D case:

9 (1) The clerk of court shall have the responsibility  
10 and authority for monitoring the obligor's  
11 compliance with all child support orders in the  
12 case and for initiating any enforcement procedures  
13 that it considers appropriate. The State Child  
14 Support Collection and Disbursement Unit shall  
15 notify the clerk of court of all payments made in  
16 non-IV-D cases so that the clerk of court can  
17 initiate enforcement proceedings as provided in  
18 subsection (d) of this section.

19 (2) The clerk of court shall maintain all official  
20 records in the case.

21 (3) The clerk of court shall maintain any other records  
22 needed to monitor the obligor's compliance with or  
23 to enforce the child support orders in the case,  
24 including records showing the amount of each  
25 payment of child support received from or on behalf  
26 of the obligor, along with the dates on which each  
27 payment was received."

28 Section 29. G.S. 50-13.9(d) reads as rewritten:

29 "(d) In a non-IV-D case, when the clerk of superior court is  
30 notified by the State Child Support Collection and Disbursement  
31 Unit that an obligor fails has failed to make a required payment  
32 of child support and is in arrears, the clerk of superior court  
33 shall mail by regular mail to the last known address of the  
34 obligor a notice of delinquency. The notice shall set out the  
35 amount of child support currently due and shall demand immediate  
36 payment of ~~said~~ that amount. The notice shall also state that  
37 failure to make immediate payment will result in the issuance by  
38 the court of an enforcement order requiring the obligor to appear  
39 before a district court judge and show cause why the support  
40 obligation should not be enforced by income withholding, contempt  
41 of court, revocation of licensing privileges, or other  
42 appropriate means. Failure to receive the delinquency notice  
43 ~~shall is~~ is not be a defense in any subsequent proceeding. Sending  
44 the notice of delinquency ~~shall be~~ is in the discretion of the

1 clerk if the clerk has, during the previous 12 months, sent a  
2 notice or notices of delinquency to the obligor for nonpayment,  
3 or if income withholding has been implemented against the obligor  
4 or the obligor has been previously found in contempt for  
5 nonpayment under the same child support order.

6 If the arrearage is not paid in full within 21 days after the  
7 mailing of the delinquency notice, or without waiting the 21 days  
8 if the clerk has elected not to mail a delinquency notice for any  
9 of the reasons provided ~~herein~~, in this subsection, the clerk  
10 shall cause an enforcement order to be issued and shall issue a  
11 notice of hearing before a district court judge. The enforcement  
12 order shall order the obligor to appear and show cause why ~~he~~ the  
13 obligor should not be subjected to income withholding or adjudged  
14 in contempt of court, or both, and shall order the obligor to  
15 bring to the hearing records and information relating to ~~his~~ the  
16 obligor's employment, ~~his~~ the obligor's licensing privileges, and  
17 the amount and sources of ~~his~~ the obligor's disposable income.  
18 The enforcement order shall state:

- 19 (1) That the obligor is under a court order to provide  
20 child support, the name of each child for whose  
21 benefit support is due, and information sufficient  
22 to identify the order;
- 23 (2) That the obligor is delinquent and the amount of  
24 overdue support;
- 25 (2a) That the court may order the revocation of some or  
26 all of the obligor's licensing privileges if the  
27 obligor is delinquent in an amount equal to the  
28 support due for one month;
- 29 (3) That the court may order income withholding if the  
30 obligor is delinquent in an amount equal to the  
31 support due for one month;
- 32 (4) That income withholding, if implemented, will apply  
33 to the obligor's current payors and all subsequent  
34 payors and will be continued until terminated  
35 pursuant to G.S. 110-136.10;
- 36 (5) That failure to bring to the hearing records and  
37 information relating to his employment and the  
38 amount and sources of his disposable income will be  
39 grounds for contempt;
- 40 (6) That if income withholding is not an available or  
41 appropriate remedy, the court may determine whether  
42 the obligor is in contempt or whether any other  
43 enforcement remedy is appropriate.

1 The enforcement order may be signed by the clerk or a district  
2 court judge, and shall be served on the obligor pursuant to G.S.  
3 1A-1, Rule 4, Rules of Civil Procedure. The clerk shall also  
4 notify the party to whom support is owed of the pending hearing.  
5 The clerk may withdraw the order to the supporting party upon  
6 receipt of the delinquent payment. On motion of the person to  
7 whom support is owed, with the approval of the district court  
8 judge, if the district court judge finds it is in the best  
9 interest of the child, no enforcement order shall be issued.

10 When the matter comes before the court, the court shall proceed  
11 as in the case of a motion for income withholding under G.S. 110-  
12 136.5. If income withholding is not an available or adequate  
13 remedy, the court may proceed with contempt, imposition of a  
14 lien, or other available, appropriate enforcement remedies.

15 This subsection shall apply only to non-IV-D cases, except that  
16 the clerk shall issue an enforcement order in a IV-D case when  
17 requested to do so by an IV-D obligee."

18 Section 30. G.S. 50-13.10(e) reads as rewritten:

19 "(e) When a child support payment ~~which~~ that is to be made to  
20 ~~a clerk of superior court~~ the State Child Support Collection and  
21 Disbursement Unit is not received by ~~the clerk~~ the Unit when due,  
22 the payment is not a past due child support payment for purposes  
23 of this section, and no arrearage accrues, if the payment is  
24 actually made to and received on time by the party entitled to  
25 receive it and ~~such~~ that receipt is evidenced by a canceled  
26 check, money order, or contemporaneously executed and dated  
27 written receipt. Nothing in this section shall affect the duties  
28 of the clerks or the IV-D agency under this Chapter or Chapter  
29 110 of the General Statutes with respect to payments not received  
30 by ~~them~~ the Unit on time, but the court, in any action to enforce  
31 such a payment, may enter an order directing the clerk or the IV-  
32 D agency to enter the payment on ~~his~~ the clerk's or IV-D agency's  
33 records as having been made on time, if the court finds that the  
34 payment was in fact received by the party entitled to receive it  
35 as provided in this subsection."

36 Section 31. G.S. 110-36.3 is amended by adding a new  
37 section to read:

38 "(d1) Employment Verifications. -- For the purpose of  
39 establishing or modifying a child support order, the amount of  
40 the obligor's gross income may be established by a written  
41 statement signed by the obligor's employer or the employer's  
42 designee or an Employee Verification form produced by the  
43 Automated Collections Tracking System that has been completed and  
44 signed by the obligor's employer or the employer's designee. A

1 written statement signed by the employer of the obligor or the  
2 employer's designee that sets forth an obligor's gross income, as  
3 well as, an Employee Verification form signed by the obligor's  
4 employer or the employer's designee shall be admissible evidence  
5 in any action establishing or modifying a child support order."

6 Section 32. G.S. 110-136(d) reads as rewritten:

7 "(d) Upon receipt of an order of garnishment, the garnishee  
8 shall transmit without delay to the ~~clerk of superior court~~ State  
9 Child Support Collection and Disbursement Unit the amount ordered  
10 by the court to be garnished. These funds shall be disbursed to  
11 the party designated by the court which in those cases of  
12 dependent children receiving public assistance shall be the North  
13 Carolina Department of Health and Human Services."

14 Section 33. G.S. 110-136.5(b) reads as rewritten:

15 "(b) Withholding Based on Obligor's Request. The obligor may  
16 request at any time that income withholding be implemented. The  
17 request may be made either verbally in open court or by written  
18 request.

19 (1) A written request for withholding shall state:

- 20 a. That the obligor is under a court order to  
21 provide child support, and information  
22 sufficient to identify the order;
- 23 b. Whether the obligor is delinquent and the  
24 amount of any overdue support;
- 25 c. The name of each child for whose benefit  
26 support is payable;
- 27 d. The name, location, and mailing address of the  
28 payor or payors from whom the obligor receives  
29 disposable income and the amount of the  
30 obligor's monthly disposable income from each  
31 payor;
- 32 e. That the obligor understands that withholding,  
33 if implemented, will apply to the obligor's  
34 current payors and all subsequent payors and  
35 will be continued until terminated pursuant to  
36 G.S. 110-136.10; and
- 37 f. That the obligor understands that the amount  
38 withheld will include an amount sufficient to  
39 pay current child support, an additional  
40 amount toward liquidation of any arrearages,  
41 and a two dollar (\$2.00) processing fee to be  
42 retained by the employer for each withholding,  
43 but that the total amount withheld may not

- 1 exceed the following percent of disposable  
2 income:  
3 1. Forty percent (40%) if there is only one  
4 order for withholding;  
5 2. Forty-five percent (45%) if there is more  
6 than one order for withholding and the  
7 obligor is supporting other dependent  
8 children or his or her spouse; or  
9 3. Fifty percent (50%) if there is more than  
10 one order for withholding and the obligor  
11 is not supporting other dependent  
12 children or a spouse.

13 (2) A written request for withholding shall be filed in  
14 the office of the clerk of superior court ~~to which~~  
15 ~~the obligor is directed to make child support~~  
16 ~~payments of the court that entered the order for~~  
17 ~~child support.~~ If the request states and the clerk  
18 verifies that the obligor is not delinquent, the  
19 court may enter an order for withholding without  
20 further notice or hearing. If the request states  
21 or the clerk finds that the obligor is delinquent,  
22 the matter shall be scheduled for hearing unless  
23 the obligor in writing waives his right to a  
24 hearing and consents to the entry of an order for  
25 withholding of an amount the court determines to be  
26 appropriate. The court may require a hearing in  
27 any case. Notice of any hearing under this  
28 subdivision shall be sent to the obligee."

29 Section 34. G.S. 110-136.8(b), as amended by Section 1  
30 of S.L. 1998-17 and Section 7 of S.L. 1998-176, reads as  
31 rewritten:

32 "(b) Payor's responsibilities. A payor who has been properly  
33 served with a notice to withhold is required to:

- 34 (1) Withhold from the obligor's disposable income and,  
35 within 7 business days of the date the obligor is  
36 paid, send to the ~~clerk of superior court or State~~  
37 ~~collection and disbursement unit, as specified in~~  
38 ~~the notice, State Child Support Collection and~~  
39 ~~Disbursement Unit~~ the amount specified in the  
40 notice and the date the amount was withheld, but in  
41 no event more than the amount allowed by G.S.  
42 110-136.6; however, if a lesser amount of  
43 disposable income is available for any pay period,  
44 the payor shall either: ~~(a)~~

- 1           a.   ~~compute~~ Compute and send the appropriate  
2           amount to the ~~clerk of court,~~ State Child  
3           Support Collection and Disbursement Unit using  
4           the percentages as provided in G.S. ~~110-136.6,~~  
5           110-136.6; or ~~(b)~~  
6           b.   ~~request~~ Request the initiating party to inform  
7           the payor of the proper amount to be withheld  
8           for that period;  
9       (2) Continue withholding until further notice from the  
10       IV-D agency, the clerk of superior court, or the  
11       State collection and disbursement unit;  
12       (3) Withhold for child support before withholding  
13       pursuant to any other legal process under State law  
14       against the same disposable income;  
15       (4) Begin withholding from the first payment due the  
16       obligor in the first pay period that occurs 14 days  
17       following the date the notice of the obligation to  
18       withhold was served on the payor;  
19       (5) Promptly notify the obligee in a IV-D case, or the  
20       clerk of superior court or the State collection and  
21       disbursement unit in a non-IV-D case, in writing:  
22       a.   If there are one or more orders of child  
23       support withholding for the obligor;  
24       a1.  If there are one or more orders of alimony or  
25       postseparation support withholding for the  
26       obligor;  
27       b.   When the obligor terminates employment or  
28       otherwise ceases to be entitled to disposable  
29       income from the payor, and provide the  
30       obligor's last known address, and the name and  
31       address of his new employer, if known;  
32       c.   Of the payor's inability to comply with the  
33       withholding for any reason; and  
34       (6) Cooperate fully with the initiating party in the  
35       verification of the amount of the obligor's  
36       disposable income."

37       Section 35. G.S. 110-136.8(d) reads as rewritten:  
38       "(d) The payor may combine amounts withheld from obligors'  
39       disposable incomes in a single payment to ~~each clerk of superior~~  
40       ~~court~~ the State Child Support Collection and Disbursement Unit if  
41       the payor separately identifies by name and case number the  
42       portion of the single payment attributable to each individual  
43       obligor and the date that each payment was withheld from the  
44       obligor's disposable income."

1 Section 36. G.S. 110-136.9 reads as rewritten:

2 "§ 110-136.9. Payment of withheld funds.

3 In ~~IV-D~~ all cases, when required by federal or State law or  
4 ~~regulations or by court order~~, the clerk of superior court shall  
5 ~~transmit payments received from payors to the Department of~~  
6 ~~Health and Human Services for appropriate distribution. In all~~  
7 ~~other cases, unless a court order requires otherwise, the clerk~~  
8 ~~of superior court shall transmit the payments to the custodial~~  
9 ~~parent.~~ the State Child Support Collection and Disbursement Unit  
10 shall distribute payments received from payors to the appropriate  
11 recipient."

12 Section 37. G.S. 110-139(f) reads as rewritten:

13 "(f) There is established the State Child Support Collection  
14 and Disbursement Unit. The duties of the Unit shall be the  
15 collection and disbursement of payments under support orders ~~for:~~

16 (1) ~~All IV-D cases, and~~

17 (2) ~~All non-IV-D cases in which the support order was~~  
18 ~~initially issued in this State on or after January~~  
19 ~~1, 1994, and in which the income of the~~  
20 ~~noncustodial parent is subject to income~~  
21 ~~withholding.~~

22 for all cases. The Department may administer and operate the  
23 Unit or may contract with another State or private entity for the  
24 administration and operation of the Unit."

25 Section 38. G.S. 15A-1344.1 reads as rewritten:

26 "§ 15A-1344.1. Procedure to insure payment of child support.

27 (a) When the court requires, as a condition of supervised or  
28 unsupervised probation, that a defendant support his children,  
29 the court may order at any time that support payments be made to  
30 ~~the clerk of court~~ State Child Support Collection and  
31 Disbursement Unit for remittance to the party entitled to receive  
32 the payments. For child support orders initially entered on or  
33 after January 1, 1994, the immediate income withholding  
34 provisions of G.S. 110-136.5(c1) ~~shall~~ apply.

35 (b) After entry of such an order by the court, the clerk of  
36 court shall maintain records listing the amount of payments, the  
37 date payments are required to be made, and the names and  
38 addresses of the parties affected by the order.

39 (c) The parties affected by the order shall inform the clerk  
40 of court and the State Child Support Collection and Disbursement  
41 Unit of any change of address or of other condition that may  
42 affect the administration of the order. The court may provide in  
43 the order that a defendant failing to inform the court and the  
44 State Child Support Collection and Disbursement Unit of a change

1 of address within reasonable period of time may be held in  
2 violation of probation.

3 (d) When a defendant in a non-IV-D case, as defined in G.S.  
4 110-129, fails to make required payments of child support and is  
5 in arrears, upon notification by the State Child Support  
6 Collection and Disbursement Unit the clerk of superior court may  
7 mail by regular mail to the last known address of the defendant a  
8 notice of delinquency ~~which shall set~~ that sets out the amount of  
9 child support currently due and ~~which shall demand~~ that demands  
10 immediate payment of ~~said~~ the amount. Failure to receive the  
11 delinquency notice ~~shall~~ is not be a defense in any probation  
12 violation hearing or other proceeding thereafter. If the  
13 arrearage is not paid in full within 21 days after the mailing of  
14 the delinquency notice, or is not paid within 30 days after the  
15 defendant becomes delinquent if the clerk has elected not to send  
16 a delinquency notice, the clerk shall certify the amount due to  
17 the district attorney and probation officer, who shall initiate  
18 proceedings for revocation of probation pursuant to Article 82 of  
19 Chapter 15A or make a motion in the criminal case for income  
20 withholding pursuant to G.S. 110-136.5 or both.

21 When a defendant in a IV-D case, as defined in G.S. 110-129,  
22 fails to make required payments of child support and is in  
23 arrears, at the request of the IV-D obligee the clerk shall  
24 certify the amount due to the district attorney and probation  
25 officer, who shall initiate proceedings for revocation of  
26 probation pursuant to Article 82 of Chapter 15A or make a motion  
27 in the criminal case for income withholding pursuant to G.S.  
28 110-136.5 or both."

29 **PART III. EFFECTIVE DATES.**

30 Section 39. This act becomes effective October 1, 1999.  
31 The mandatory sanctions under G.S. 110-142.2(b), as amended by  
32 this act, apply when an obligor is adjudicated to be in civil or  
33 criminal contempt for a third or subsequent time after this act  
34 becomes effective.

35 Part I of this act becomes effective only if the 1999 General  
36 Assembly (1999 Regular Session) does not appropriate to the  
37 Department of Health and Human Services the sum of two million  
38 four hundred ninety-six thousand five hundred and ninety-one  
39 dollars (\$2,496,591) for the 1999-2000 and the sum of three  
40 million three hundred twenty-eight thousand seven hundred and  
41 ninety-one dollars (\$3,328,791) for fiscal year 2000-2001 for the  
42 administrative cost of receiving and disbursing child support  
43 payments in non-IV-D cases established prior to January 1, 1994.  
44 If the General Assembly does not appropriate the funds to the

1 Department of Health and Human Services Part 1 becomes effective.  
2 Part II of this act becomes effective only if the 1999 General  
3 Assembly (1999 Regular Session) appropriates funds to the  
4 Department of Health and Human Services the sum of two million  
5 four hundred ninety-six thousand five hundred and ninety-one  
6 dollars (\$2,496,591) for the 1999-2000 and the sum of three  
7 million three hundred twenty-eight thousand seven hundred and  
8 ninety-one dollars (\$3,328,791) for fiscal year 2000-2001 for the  
9 administrative cost of receiving and disbursing child support  
10 payments in non-IV-D cases established prior to January 1, 1994.  
11 If the General Assembly appropriates the funds to the Department  
12 of Health and Human Services Part II becomes effective. This act  
13 does not obligate the General Assembly to appropriate funds.  
14



BILL ANALYSIS

HOUSE BILL 302:  
Enhance Child Support Enforcement/AB

Committee: Children & Human Resources  
Date: May 19, 1999  
Version: H302-PCSSE-001

Introduced by: Rep. Culpepper  
Summary by: Jo B. McCants  
Committee Co-Counsel

**SUMMARY:** *The proposed committee substitute to House Bill 302 has three (3) parts. Part I and Part II of the bill are practically identical. However, Part I and Part II differ with respect to the types of child support payments that must be forwarded to the State Child Support Collection and Disbursement Unit. Under Part I child support payments submitted through income withholding in IV-D cases and non-IV-D cases initiated on or after January 1, 1994, must be forwarded to the State Child Support Collection and Disbursement Unit (Unit). Part II requires child support payments in cases that were initiated prior to January 1, 1994 to also be forwarded to the State Child Support Collection and Disbursement Unit rather than to the clerk of superior court. Several conforming statutory changes were also made in Part II to address the issue of child support payments being sent to the Unit rather than to the clerk of superior court. Part III provides that if the General Assembly appropriates funds to the Department of Health and Human Services for the administrative cost of receiving and disbursing non-IV-D cases initiated prior to January 1, 1999, Part II becomes effective October 1, 1999. If there is not an appropriation made to cover the expense of the additional cases, Part I becomes effective on that date. Both Part I and Part II make the following changes to current law:*

- 1) Provides that a written acknowledgment of paternity executed by the father accompanied by a written affirmation of paternity sworn to by the mother has the same legal effect as a court's judgment of paternity.*
- 2) Requires the court to revoke a noncustodial parent's drivers license or recreational license, or direct DMV to prevent the noncustodial parent from registering a vehicle if the noncustodial parent has been held in contempt on 3 or more occasions for failure to comply with a child support order.*
- 3) Requires a noncustodial parent who has failed to pay support to make an immediate initial payment of 5% of the total delinquency or \$500, whichever is less to stay a license revocation.*
- 4) Requires that all payments ordered for the support of a minor be paid once per month.*
- 5) Allows the ESC to automatically withhold a maximum of 25% of a noncustodial parent's unemployment compensation benefits when the agency receives an income withholding order from an out-of-state court.*
- 6) Creates a new enforcement mechanism (Administrative Enforcement in Interstate Cases) that would allow child support enforcement (CSE) to locate and secure assets owned by a noncustodial parent that are located outside of the state when the parent is delinquent in making support payments.*

7) *Makes it clear that employers must enroll the child of a noncustodial parent in the NC State Employees' Comprehensive Major Medical Plan when the support order includes medical coverage.*

8) *Requires child support payments submitted through income withholding in IV-D cases and non-IV-D cases initiated on or after 1/1/94 to be forwarded to the State Child Support Collection and Disbursement Unit. The Unit will distribute the child support payments. The Unit will also notify the clerk of court of all payments received in non-IV-D cases subject to income withholding. (Note: Part II includes cases initiated prior to 1/1/94.)*

9) *Allows a written statement signed by a noncustodial parent's employer or an Employee Verification form to be admitted into evidence for the purpose of determining a noncustodial parent's gross income when establishing or modifying a child support order.*

**BILL ANALYSIS:** PART I (Part II essentially restates Part I with the exception of the receipt and disbursement of child support payments in cases initiated prior to 1/1/94 and conforming changes.)

**Section 1:** Section 1 amends current law to provide that a written acknowledgement of paternity executed by a putative father, accompanied by a written affirmation of paternity sworn to by the mother of the child has the same legal effect as a judgement of paternity for the purpose of establishing a child support obligation, subject to the right of rescission by either party. Federal Welfare Reform legislation requires all States to enact procedures that would allow a signed voluntary acknowledgment of paternity to be a legal finding of paternity subject to a right of rescission. Under our current law, the signed acknowledgment constitutes only an admission of paternity.

**Section 2.** Section 2 amends current law to make it mandatory that the court impose one or more of the sanctions available when a noncustodial parent has been held in contempt for failure to pay child support on three or more occasions. The sanctions available include the revocation of the parent's drivers license or recreational licenses. In addition, DMV can be instructed not to allow the parent to register a vehicle because of the parent's delinquency. In addition, this section requires that any delinquency be paid in full within a reasonable period of time with an immediate initial payment of 5% of the delinquency or \$500, whichever is less. Under current law, the court has the discretion to decide whether to impose any of the available sanctions when a noncustodial parent is found in contempt for failure to pay support.

**Section 3.** Section 3 amends current law to require all new and modified child support orders to require support to be paid once per month, due and payable on the first day of each month. Under current law, courts may order a noncustodial parent to pay support weekly, bi-weekly, or monthly.

**Sections 4 and 5.** Sections 4 and 5 would allow the Employment Security Commission (ESC), upon receiving a certified child support order from another state, to withhold a maximum of 25% of a noncustodial parent's unemployment benefits. The money withheld by ESC would be sent to the appropriate out-of-state child support enforcement agency for disbursement. Under current law, the out-of-state order must be registered in North Carolina before a child support claim can be made against unemployment benefits.

**Section 6.** Section 6 adds a new statutory provision that would enable CSE to locate and secure assets owned by a parent that are located outside of the State when the parent is delinquent in paying child

support. This provision has been added in response to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which requires states to create a new child support enforcement mechanism entitled Administrative Enforcement in Interstate Cases.

**Sections 7 and 8.** Sections 7 and 8 amend current law to include the NC State Employees' Comprehensive Major Medical Plan (State Health Plan) as a health plan that CSE may enroll a child of a noncustodial parent when the child support order requires the noncustodial parent to provide medical insurance for the child or children receiving support. Under current law, the State Health Plan is not listed as a plan that an employer must enroll the children of the noncustodial parent who is required to provide medical support. However, the current practice has been for all state personnel agencies to cooperate with CSE by enrolling all eligible children.

**Sections 9 through 15.** Sections 9 through 15 amend current law with regard to the establishment of a support obligation, the receipt, and disbursement of child support payments. These sections provide that child support payments submitted through income withholding shall be forwarded to the Child Support Collection and Disbursement Unit. The Unit will be required to disburse all support payments received. In addition, when establishing or modifying a child support order, a written signed statement or employee verification signed by a noncustodial parent is admissible evidence to establish the noncustodial parent's gross income. Under current law, the clerk of superior court in each county receives child support payments made through income withholding.\*



BILL ANALYSIS

## HOUSE BILL 255: VOCATIONAL REHABILITATION CHANGES

<b>Committee:</b>	Children & Human Resources	<b>Introduced by:</b>	Alexander
<b>Date:</b>	May 26, 1999	<b>Summary by:</b>	Jo B. McCants
<b>Version:</b>	1		Committee Co-Counsel

### Background:

It is the policy of the State that persons with physical and mental disabilities should be able to participate to the maximum extent of their abilities in the economic, educational, cultural, social and political activities available to all citizens of the State. (G.S. 143-545.1(a)) To implement this policy the Department of Health and Human Services operates a comprehensive program of vocational rehabilitation and independent living programs that are administered by the Division of Vocational Rehabilitation. The primary funding for those programs in the Division of Vocational Rehabilitation comes from federal sources under authority of the Federal Rehabilitation Act of 1973 with amendments through the Federal Rehabilitation Act Amendments of 1998 as part of the Workforce Investment Act of 1998 (P.L. 105-220). The Division of Vocational Rehabilitation has requested changes in G.S. 143-545.1 and G.S. 143-548 that the Division believes will conform our statutes to the federal requirements of P.L. 105-220.

### Summary

House Bill 255 makes the following statutory changes:

1. **Section 1-** amends G.S. 143-545.1 to delete the reference to "extended evaluation". Extended evaluations were required under previous federal law to assist potential clients who initially appeared to be ineligible for placement because of severe disabilities. The federal regulations no longer use the term "extended evaluation." However, the Division will continue pursuant to other regulations, to provide assistance to those persons who have severe disabilities.
2. **Section 2-**Amends G.S. 143-548 to make the following changes in the Vocational Rehabilitation Advisory Council;
  - a. deletes the word "advisory" from the name of the Vocational Rehabilitation Advisory Council,
  - b. expands the membership from 15 to not more than 18 by adding 1) one additional member appointed by the President Pro Tempore who represents the Commission on Workforce Preparedness, 2) one additional member appointed by the Speaker representing the Department of Public Instruction, and 3) one additional member appointed by the Governor representing the directors of projects carried out under § 121 of the Rehabilitation Act of 1973 (monies under the Act reserved for native Americans) if there are such projects.
  - c. gives the Council certain responsibilities specified under federal statutes.
3. **Section 3-**Makes the statute effective when it becomes law.

\*\*\*John Young contributed to the preparation of this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

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HOUSE BILL 262  
Second Edition Engrossed 4/7/99

Short Title: Enhance Child Welfare Services/AB.

(Public)

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Sponsors: Representatives Culpepper; Alexander, Gardner, and Hunter.

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Referred to: Children, Youth and Families.

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March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO  
3 CUSTODY OF ABUSED, NEGLECTED, OR DEPENDENT JUVENILES IN  
4 THE CUSTODY OR AUTHORITY OF THE COUNTY DEPARTMENTS OF  
5 SOCIAL SERVICES.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 7B-101(3), as enacted in Section 6 of S.L. 1998-202, reads  
8 as rewritten:  
9 "(3) Caretaker. -- Any person other than a parent, guardian, or  
10 custodian who has responsibility for the health and welfare of a  
11 juvenile in a residential setting. A person responsible for a  
12 juvenile's health and welfare means a stepparent, foster parent, an  
13 adult member of the juvenile's household, an adult relative  
14 entrusted with the juvenile's care, ~~or~~ any person such as a house  
15 parent or cottage parent who has primary responsibility for  
16 supervising a juvenile's health and welfare in a residential child  
17 care facility or residential educational ~~facility~~. facility, or any  
18 employee or volunteer of a division, institution, or school operated  
19 by the Department of Health and Human Services. "Caretaker"  
20 also means any person who has the responsibility for the care of a  
21 juvenile in a child care facility as defined in Article 7 of Chapter  
22 110 of the General Statutes and includes any person who has the  
23 approval of the care provider to assume responsibility for the

1 juveniles under the care of the care provider. Nothing in this  
2 subdivision shall be construed to impose a legal duty of support  
3 under Chapter 50 or Chapter 110 of the General Statutes. The  
4 duty imposed upon a caretaker as defined in this subdivision shall  
5 be for the purpose of this Subchapter only."

6 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
7 amended by Section 19 of S.L. 1998-229, reads as rewritten:

8 "(b) When a report of a juvenile's death as a result of suspected maltreatment or a  
9 report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional  
10 setting is received, the director of the department of social services shall immediately  
11 ascertain if other juveniles ~~remain~~ live in the home, and, if so, initiate an  
12 investigation in order to determine whether they require protective services or  
13 whether immediate removal of the juveniles from the home is necessary for their  
14 protection. When a report of a juvenile's death as a result of maltreatment or a  
15 report of suspected abuse, neglect, or dependency of a juvenile in an institutional  
16 setting such as a residential child care facility or residential educational facility is  
17 received, the director of the department of social services shall immediately ascertain  
18 if other juveniles remain in the facility subject to the alleged perpetrator's care or  
19 supervision, and, if so, assess the circumstances of those juveniles in order to  
20 determine whether they require protective services or whether immediate removal of  
21 those juveniles from the facility is necessary for their protection."

22 Section 3. G.S. 108A-49 reads as rewritten:

23 "**§ 108A-49. Foster care and adoption assistance payments.**

24 (a) Benefits in the form of foster care assistance shall be granted in accordance  
25 with the rules of the Social Services Commission to any dependent child who would  
26 have been eligible to receive Aid to Families with Dependent Children (as that  
27 program was in effect on June 1, 1995), but for his or her removal from the home of  
28 a specified relative for placement in a foster care facility; provided, that the child's  
29 placement and care is the responsibility of a county department of social services. A  
30 county department of social services shall pay, at a minimum, the monthly graduated  
31 foster care assistance payments for eligible children as set by the General Assembly.  
32 A county department of social services may make foster care assistance payments in  
33 excess of the monthly graduated rates set by the General Assembly.

34 (b) Adoption assistance payments for certain adoptive children shall be granted in  
35 accordance with the rules of the Social Services Commission to adoptive parents who  
36 adopt a child eligible to receive foster care maintenance payments or supplemental  
37 security income benefits; provided, that the child cannot be returned to his or her  
38 parents; and provided, that the child has special needs which create a financial  
39 barrier to adoption. A county department of social services shall pay, at a minimum,  
40 the monthly graduated adoption assistance payments for eligible children as set by the  
41 General Assembly. A county department of social services may make adoption  
42 assistance payments in excess of the monthly graduated rates set by the General  
43 Assembly.

1 (c) The Department is authorized to use available federal payments to states  
2 under Title IV-E of the Social Security Act for foster care and adoption assistance  
3 payments."

4 Section 4. G.S. 143B-150.20, as enacted by Section 12.22 of S.L. 1998-  
5 212 and as amended by Section 13(oo) of S.L. 1998-202, reads as rewritten:

6 "**§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers;  
7 duties.**

8 There is established in the Department of Health and Human Services, Division of  
9 Social Services, a State Child Fatality Review Team to conduct in-depth reviews of  
10 any child fatalities which have occurred involving children and families involved with  
11 local departments of social services child protective services in the 12 months  
12 preceding the fatality. Steps in this in-depth review shall include interviews with any  
13 individuals determined to have pertinent information as well as examination of any  
14 written materials containing pertinent information.

15 The purpose of these reviews shall be to implement a team approach to identifying  
16 factors which may have contributed to conditions leading to the fatality and to  
17 develop recommendations for improving coordination between local and State  
18 entities which might have avoided the threat of injury or fatality and to identify  
19 appropriate remedies. The Division of Social Services shall make public the findings  
20 and recommendations developed for each fatality reviewed relating to improving  
21 coordination between local and State entities. These findings shall not be admissible  
22 as evidence in any civil or administrative proceedings against individuals or entities  
23 that participate in child fatality reviews conducted pursuant to this section. The State  
24 Child Fatality Review Team shall consult with the appropriate district attorney in  
25 accordance with G.S. 7B-2902(d) prior to the public release of the findings and  
26 recommendations.

27 The State Child Fatality Review Team shall include representatives of the local  
28 departments of social services and the Division of Social Services, a member of the  
29 local Community Child Protection Team, a member of the local child fatality  
30 prevention team, a representative from local law enforcement, a prevention specialist,  
31 and a medical professional.

32 The State Child Fatality Review Team shall have access to all medical records,  
33 hospital records, and records maintained by this State, any county, or any local  
34 agency as necessary to carry out the purposes of this subsection, including police  
35 investigative data, medical examiner investigative data, health records, mental health  
36 records, and social services records. The State Child Fatality Review Team may  
37 receive a copy of any reviewed materials necessary to the conduct of the fatality  
38 review. Any member of the State Child Fatality Review Team may share, only in an  
39 official meeting of the State Child Fatality Review Team, any information available to  
40 that member that the State Child Fatality Review Team needs to carry out its duties.

41 Meetings of the State Child Fatality Review Team are not subject to the provisions  
42 of Article 33C of Chapter 143 of the General Statutes. However, the State Child  
43 Fatality Review Team may hold periodic public meetings to discuss, in a general  
44 manner not revealing confidential information about children and families, the

1 findings of their reviews and their recommendations for preventive actions. Minutes  
2 of all public meetings, excluding those of closed sessions, shall be kept in compliance  
3 with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other  
4 information generated during any executive session shall be sealed from public  
5 inspection.

6 All otherwise confidential information and records acquired by the State Child  
7 Fatality Review Team, in the exercise of its duties are confidential; are not subject to  
8 discovery or introduction into evidence in any proceedings except pursuant to an  
9 order of the court; and may only be disclosed as necessary to carry out the purposes  
10 of the State Child Fatality Review Team. In addition, all otherwise confidential  
11 information and records created by the State Child Fatality Review Team in the  
12 exercise of its duties are confidential; are not subject to discovery or introduction into  
13 evidence in any proceedings; and may only be disclosed as necessary to carry out the  
14 purposes of the State Child Fatality Review Team. No member of the State Child  
15 Fatality Review Team, nor any person who attends a meeting of the State Child  
16 Fatality Review Team, may testify in any proceeding about what transpired at the  
17 meeting, about information presented at the meeting, or about opinions formed by  
18 the person as a result of the meetings. This subsection shall not, however, prohibit a  
19 person from testifying in a civil or criminal action about matters within that person's  
20 independent knowledge.

21 Each member of the State Child Fatality Review Team and invited participant  
22 shall sign a statement indicating an understanding of and adherence to confidentiality  
23 requirements, including the possible civil or criminal consequences of any breach of  
24 confidentiality."

25 Section 5. Chapter 7B of the General Statutes is amended by adding a  
26 new Article to read:

27 "ARTICLE 39.

28 "Interstate Compact on Adoption and Medical Assistance.

29 "§ 7B-3900. Legislative findings and purposes.

30 (a) Finding adoptive families for children, for whom state assistance is desirable  
31 pursuant to G.S. 108A-49 and G.S. 108A-50, and assuring the protection of the  
32 interests of the children affected during the entire assistance period require special  
33 measures when the adoptive parents move to another state or are residents of another  
34 state. Additionally, the provision of medical and other necessary services for children  
35 receiving State assistance encounters special difficulties when the provision of services  
36 takes place in another state.

37 (b) In recognition of the need for special measures, the General Assembly  
38 authorizes the Secretary of the Department of Health and Human Services to enter  
39 into interstate agreements with agencies of other states for the protection of children  
40 on behalf of whom adoption assistance is being provided by the Department of  
41 Health and Human services and to provide procedures for interstate adoption  
42 assistance payments, including payments for medical services.

43 "§ 7B-3901. Definitions.

44 Unless the context requires otherwise, as used in this Article:

1           (1) 'State' means a state of the United States, the District of Columbia,  
2           the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the  
3           Commonwealth of the Northern Mariana Islands, or any territory  
4           or possession subject to the jurisdiction of the United States.

5           (2) 'Adoption assistance state' means the state that is a signatory to an  
6           adoption assistance agreement in a particular case.

7           (3) 'Residence state' means the state where the child is living.

8 **"§ 7B-3902. Compacts authorized.**

9       The Secretary of the Department of Health and Human Services may develop,  
10 participate in the development of, negotiate, and enter into one or more interstate  
11 compacts on behalf of this State with other states to implement this Article. When  
12 entered into, and for so long as it remains in force, such a compact shall have the full  
13 force and effect of law.

14 **"§ 7B-3903. Content of compacts.**

15       (a) A compact under this Article shall contain all of the following provisions:

16           (1) A provision making it available for joinder by all states.

17           (2) A provision for withdrawal from the compact upon written notice  
18 to the parties, with a period of at least one year between the date  
19 of the notice and effective date of the withdrawal.

20           (3) A requirement that the protections afforded by or under the  
21 compact continue in force for the duration of the adoption  
22 assistance and apply to all children and their adoptive parents  
23 who, on the effective date of the withdrawal, are receiving  
24 adoption assistance from a party state other than the state in which  
25 they are resident and have their principal place of abode.

26           (4) A requirement that each instance of adoption assistance to which  
27 the compact applies be covered by an adoption assistance  
28 agreement in writing between the adoptive parents and the state  
29 child welfare agency of the state which undertakes to provide the  
30 adoption assistance and that any such agreement be expressly for  
31 the benefit of the adopted child and enforceable by the adoptive  
32 parents and the state child welfare agency providing the adoption  
33 assistance.

34           (5) Any other provisions appropriate to implement the proper  
35 administration of the compact.

36       (b) A compact entered into under this Article may contain any of the following  
37 provisions:

38           (1) Provisions establishing procedures and entitlement to medical and  
39 other necessary social services for the child in accordance with  
40 applicable laws, even though the child and the adoptive parents  
41 are in a state other than the one responsible for or providing the  
42 services or the funds to defray part or all of the expense thereof.

43           (2) Any other provisions appropriate or incidental to the proper  
44 administration of the compact.

1 "§ 7B-3904. Medical assistance.

2 (a) A child with special needs who is a resident of this State who is the subject of  
3 an adoption assistance agreement with another state shall be accepted as being  
4 entitled to receive medical assistance certification from this State upon the filing in  
5 the department of social services of the county in which the child resides a certified  
6 copy of the adoption assistance agreement obtained from the adoption assistance  
7 state.

8 (b) The Division of Medical Assistance shall consider the holder of a medical  
9 assistance certification under this section to be entitled to the same medical benefits  
10 under the laws of this State as any other holder of a medical assistance certification  
11 and shall process and make payment on claims on account of that holder in the same  
12 manner and under the same conditions and procedures that apply to other recipients  
13 of medical assistance.

14 (c) The provisions of this section apply only to medical assistance for children  
15 under adoption assistance agreements from states that have entered into a compact  
16 with this State under which the other state provides medical assistance to children  
17 with special needs under adoption assistance agreements made by this State.

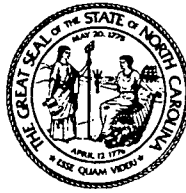
18 "§ 7B-3905. Federal participation.

19 The Department of Health and Human Services, in connection with the  
20 administration of this Article and any compact entered into pursuant to this Article,  
21 shall include the provision of adoption assistance and medical assistance for which  
22 the federal government pays some or all of the cost in any state plan made pursuant  
23 to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV  
24 (E) and XIX of the Social Security Act and any other applicable federal laws. The  
25 Department shall apply for and administer all relevant federal aid in accordance with  
26 law.

27 "§ 7B-3906. Compact administrator.

28 The Secretary of the Department of Health and Human Services may appoint a  
29 Compact Administrator who shall be the general coordinator of activities under this  
30 Compact in this State and who, acting jointly with like officers of other party states,  
31 may promulgate rules to carry out more effectively the terms and provisions of this  
32 Compact."

33 Section 6. Section 5 of this act becomes effective October 1, 1999. The  
34 remainder of this act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 262

H262-ASE-001

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)  
Page 1 of \_\_\_\_

Date 5/26, 1999

Comm. Sub. [☐  
Amends Title [☐  
Second Edition

Sen. \_\_\_\_\_

- 1 moves to amend the bill on page 5, line 25,  
2 by inserting between the words "are" and "resident" the word "a".  
3

SIGNED *C. S. Dancy*  
Amendment Sponsor

SIGNED *Jeanne H. Lucas*  
Committee Chair if Senate Committee Amendment

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 262  
Second Edition Engrossed 4/7/99  
Proposed Committee Substitute H262-PCS3429-SE

Short Title: Enhance Child Welfare Services/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO  
3 CUSTODY OF ABUSED, NEGLECTED, OR DEPENDENT JUVENILES IN  
4 THE CUSTODY OR AUTHORITY OF THE COUNTY DEPARTMENTS OF  
5 SOCIAL SERVICES.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 7B-101(3), as enacted in Section 6 of S.L. 1998-202, reads  
8 as rewritten:  
9 "(3) Caretaker. -- Any person other than a parent, guardian, or  
10 custodian who has responsibility for the health and welfare of a  
11 juvenile in a residential setting. A person responsible for a  
12 juvenile's health and welfare means a stepparent, foster parent, an  
13 adult member of the juvenile's household, an adult relative  
14 entrusted with the juvenile's care, ~~or~~ any person such as a house  
15 parent or cottage parent who has primary responsibility for  
16 supervising a juvenile's health and welfare in a residential child  
17 care facility or residential educational ~~facility~~. facility, or any  
18 employee or volunteer of a division, institution, or school operated  
19 by the Department of Health and Human Services. "Caretaker"  
20 also means any person who has the responsibility for the care of a  
21 juvenile in a child care facility as defined in Article 7 of Chapter  
22 110 of the General Statutes and includes any person who has the

1 approval of the care provider to assume responsibility for the  
2 juveniles under the care of the care provider. Nothing in this  
3 subdivision shall be construed to impose a legal duty of support  
4 under Chapter 50 or Chapter 110 of the General Statutes. The  
5 duty imposed upon a caretaker as defined in this subdivision shall  
6 be for the purpose of this Subchapter only."

7 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 19 of S.L. 1998-229, reads as rewritten:

9 "(b) When a report of a juvenile's death as a result of suspected maltreatment or a  
10 report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional  
11 setting is received, the director of the department of social services shall immediately  
12 ascertain if other juveniles ~~remain~~ live in the home, and, if so, initiate an  
13 investigation in order to determine whether they require protective services or  
14 whether immediate removal of the juveniles from the home is necessary for their  
15 protection. When a report of a juvenile's death as a result of maltreatment or a  
16 report of suspected abuse, neglect, or dependency of a juvenile in an institutional  
17 setting such as a residential child care facility or residential educational facility is  
18 received, the director of the department of social services shall immediately ascertain  
19 if other juveniles remain in the facility subject to the alleged perpetrator's care or  
20 supervision, and, if so, assess the circumstances of those juveniles in order to  
21 determine whether they require protective services or whether immediate removal of  
22 those juveniles from the facility is necessary for their protection."

23 Section 3. G.S. 108A-49 reads as rewritten:

24 "**§ 108A-49. Foster care and adoption assistance payments.**

25 (a) Benefits in the form of foster care assistance shall be granted in accordance  
26 with the rules of the Social Services Commission to any dependent child who would  
27 have been eligible to receive Aid to Families with Dependent Children (as that  
28 program was in effect on June 1, 1995), but for his or her removal from the home of  
29 a specified relative for placement in a foster care facility; provided, that the child's  
30 placement and care is the responsibility of a county department of social services. A  
31 county department of social services shall pay, at a minimum, the monthly graduated  
32 foster care assistance payments for eligible children as set by the General Assembly.  
33 A county department of social services may make foster care assistance payments in  
34 excess of the monthly graduated rates set by the General Assembly.

35 (b) Adoption assistance payments for certain adoptive children shall be granted in  
36 accordance with the rules of the Social Services Commission to adoptive parents who  
37 adopt a child eligible to receive foster care maintenance payments or supplemental  
38 security income benefits; provided, that the child cannot be returned to his or her  
39 parents; and provided, that the child has special needs which create a financial  
40 barrier to adoption. A county department of social services shall pay, at a minimum,  
41 the monthly graduated adoption assistance payments for eligible children as set by the  
42 General Assembly. A county department of social services may make adoption  
43 assistance payments in excess of the monthly graduated rates set by the General  
44 Assembly.

1 (c) The Department is authorized to use available federal payments to states  
2 under Title IV-E of the Social Security Act for foster care and adoption assistance  
3 payments."

4 Section 4. G.S. 143B-150.20, as enacted by Section 12.22 of S.L. 1998-  
5 212 and as amended by Section 13(oo) of S.L. 1998-202, reads as rewritten:

6 "**§ 143B-150.20. State Child Fatality Review Team; establishment; purpose; powers;  
7 duties.**

8 There is established in the Department of Health and Human Services, Division of  
9 Social Services, a State Child Fatality Review Team to conduct in-depth reviews of  
10 any child fatalities which have occurred involving children and families involved with  
11 local departments of social services child protective services in the 12 months  
12 preceding the fatality. Steps in this in-depth review shall include interviews with any  
13 individuals determined to have pertinent information as well as examination of any  
14 written materials containing pertinent information.

15 The purpose of these reviews shall be to implement a team approach to identifying  
16 factors which may have contributed to conditions leading to the fatality and to  
17 develop recommendations for improving coordination between local and State  
18 entities which might have avoided the threat of injury or fatality and to identify  
19 appropriate remedies. The Division of Social Services shall make public the findings  
20 and recommendations developed for each fatality reviewed relating to improving  
21 coordination between local and State entities. These findings shall not be admissible  
22 as evidence in any civil or administrative proceedings against individuals or entities  
23 that participate in child fatality reviews conducted pursuant to this section. The State  
24 Child Fatality Review Team shall consult with the appropriate district attorney in  
25 accordance with G.S. 7B-2902(d) prior to the public release of the findings and  
26 recommendations.

27 The State Child Fatality Review Team shall include representatives of the local  
28 departments of social services and the Division of Social Services, a member of the  
29 local Community Child Protection Team, a member of the local child fatality  
30 prevention team, a representative from local law enforcement, a prevention specialist,  
31 and a medical professional.

32 The State Child Fatality Review Team shall have access to all medical records,  
33 hospital records, and records maintained by this State, any county, or any local  
34 agency as necessary to carry out the purposes of this subsection, including police  
35 investigative data, medical examiner investigative data, health records, mental health  
36 records, and social services records. The State Child Fatality Review Team may  
37 receive a copy of any reviewed materials necessary to the conduct of the fatality  
38 review. Any member of the State Child Fatality Review Team may share, only in an  
39 official meeting of the State Child Fatality Review Team, any information available to  
40 that member that the State Child Fatality Review Team needs to carry out its duties.

41 Meetings of the State Child Fatality Review Team are not subject to the provisions  
42 of Article 33C of Chapter 143 of the General Statutes. However, the State Child  
43 Fatality Review Team may hold periodic public meetings to discuss, in a general  
44 manner not revealing confidential information about children and families, the

1 findings of their reviews and their recommendations for preventive actions. Minutes  
2 of all public meetings, excluding those of closed sessions, shall be kept in compliance  
3 with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other  
4 information generated during any executive session shall be sealed from public  
5 inspection.

6 All otherwise confidential information and records acquired by the State Child  
7 Fatality Review Team, in the exercise of its duties are confidential; are not subject to  
8 discovery or introduction into evidence in any proceedings except pursuant to an  
9 order of the court; and may only be disclosed as necessary to carry out the purposes  
10 of the State Child Fatality Review Team. In addition, all otherwise confidential  
11 information and records created by the State Child Fatality Review Team in the  
12 exercise of its duties are confidential; are not subject to discovery or introduction into  
13 evidence in any proceedings; and may only be disclosed as necessary to carry out the  
14 purposes of the State Child Fatality Review Team. No member of the State Child  
15 Fatality Review Team, nor any person who attends a meeting of the State Child  
16 Fatality Review Team, may testify in any proceeding about what transpired at the  
17 meeting, about information presented at the meeting, or about opinions formed by  
18 the person as a result of the meetings. This subsection shall not, however, prohibit a  
19 person from testifying in a civil or criminal action about matters within that person's  
20 independent knowledge.

21 Each member of the State Child Fatality Review Team and invited participant  
22 shall sign a statement indicating an understanding of and adherence to confidentiality  
23 requirements, including the possible civil or criminal consequences of any breach of  
24 confidentiality."

25 Section 5. Chapter 7B of the General Statutes is amended by adding a  
26 new Article to read:

27 "ARTICLE 39.

28 "Interstate Compact on Adoption and Medical Assistance.

29 "§ 7B-3900. Legislative findings and purposes.

30 (a) Finding adoptive families for children, for whom state assistance is desirable  
31 pursuant to G.S. 108A-49 and G.S. 108A-50, and assuring the protection of the  
32 interests of the children affected during the entire assistance period require special  
33 measures when the adoptive parents move to another state or are residents of another  
34 state. Additionally, the provision of medical and other necessary services for children  
35 receiving State assistance encounters special difficulties when the provision of services  
36 takes place in another state.

37 (b) In recognition of the need for special measures, the General Assembly  
38 authorizes the Secretary of the Department of Health and Human Services to enter  
39 into interstate agreements with agencies of other states for the protection of children  
40 on behalf of whom adoption assistance is being provided by the Department of  
41 Health and Human services and to provide procedures for interstate adoption  
42 assistance payments, including payments for medical services.

43 "§ 7B-3901. Definitions.

44 Unless the context requires otherwise, as used in this Article:

- 1           (1) 'State' means a state of the United States, the District of Columbia,  
2           the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the  
3           Commonwealth of the Northern Mariana Islands, or any territory  
4           or possession subject to the jurisdiction of the United States.  
5           (2) 'Adoption assistance state' means the state that is a signatory to an  
6           adoption assistance agreement in a particular case.  
7           (3) 'Residence state' means the state where the child is living.

8 **"§ 7B-3902. Compacts authorized.**

9       The Secretary of the Department of Health and Human Services may develop,  
10 participate in the development of, negotiate, and enter into one or more interstate  
11 compacts on behalf of this State with other states to implement this Article. When  
12 entered into, and for so long as it remains in force, such a compact shall have the full  
13 force and effect of law.

14 **"§ 7B-3903. Content of compacts.**

- 15       (a) A compact under this Article shall contain all of the following provisions:  
16           (1) A provision making it available for joinder by all states.  
17           (2) A provision for withdrawal from the compact upon written notice  
18           to the parties, with a period of at least one year between the date  
19           of the notice and effective date of the withdrawal.  
20           (3) A requirement that the protections afforded by or under the  
21           compact continue in force for the duration of the adoption  
22           assistance and apply to all children and their adoptive parents  
23           who, on the effective date of the withdrawal, are receiving  
24           adoption assistance from a party state other than the state in which  
25           they are a resident and have their principal place of abode.  
26           (4) A requirement that each instance of adoption assistance to which  
27           the compact applies be covered by an adoption assistance  
28           agreement in writing between the adoptive parents and the state  
29           child welfare agency of the state which undertakes to provide the  
30           adoption assistance and that any such agreement be expressly for  
31           the benefit of the adopted child and enforceable by the adoptive  
32           parents and the state child welfare agency providing the adoption  
33           assistance.  
34           (5) Any other provisions appropriate to implement the proper  
35           administration of the compact.  
36       (b) A compact entered into under this Article may contain any of the following  
37 provisions:  
38           (1) Provisions establishing procedures and entitlement to medical and  
39           other necessary social services for the child in accordance with  
40           applicable laws, even though the child and the adoptive parents  
41           are in a state other than the one responsible for or providing the  
42           services or the funds to defray part or all of the expense thereof.  
43           (2) Any other provisions appropriate or incidental to the proper  
44           administration of the compact.

1 "§ 7B-3904. Medical assistance.

2 (a) A child with special needs who is a resident of this State who is the subject of  
3 an adoption assistance agreement with another state shall be accepted as being  
4 entitled to receive medical assistance certification from this State upon the filing in  
5 the department of social services of the county in which the child resides a certified  
6 copy of the adoption assistance agreement obtained from the adoption assistance  
7 state.

8 (b) The Division of Medical Assistance shall consider the holder of a medical  
9 assistance certification under this section to be entitled to the same medical benefits  
10 under the laws of this State as any other holder of a medical assistance certification  
11 and shall process and make payment on claims on account of that holder in the same  
12 manner and under the same conditions and procedures that apply to other recipients  
13 of medical assistance.

14 (c) The provisions of this section apply only to medical assistance for children  
15 under adoption assistance agreements from states that have entered into a compact  
16 with this State under which the other state provides medical assistance to children  
17 with special needs under adoption assistance agreements made by this State.

18 "§ 7B-3905. Federal participation.

19 The Department of Health and Human Services, in connection with the  
20 administration of this Article and any compact entered into pursuant to this Article,  
21 shall include the provision of adoption assistance and medical assistance for which  
22 the federal government pays some or all of the cost in any state plan made pursuant  
23 to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV  
24 (E) and XIX of the Social Security Act and any other applicable federal laws. The  
25 Department shall apply for and administer all relevant federal aid in accordance with  
26 law.

27 "§ 7B-3906. Compact administrator.

28 The Secretary of the Department of Health and Human Services may appoint a  
29 Compact Administrator who shall be the general coordinator of activities under this  
30 Compact in this State and who, acting jointly with like officers of other party states,  
31 may promulgate rules to carry out more effectively the terms and provisions of this  
32 Compact."

33 Section 6. Section 5 of this act becomes effective October 1, 1999. The  
34 remainder of this act is effective when it becomes law.



BILL ANALYSIS

# ENHANCE CHILD WELFARE SERVICES/AB: HOUSE BILL 262

Committee: Children & Human Resources

Date: May 12, 1999

Version: 2

Introduced by: Rep. Culpepper

Summary by: Jo B. McCants

Committee Co-Counsel

**SUMMARY:** *This bill is a recommendation of the Department of Health and Human Services (DHHS). The bill amends several statutes in an effort to:*

- 1) make it clear that a county department of social services has the authority and responsibility to investigate reported abuse, neglect, or dependency of a juvenile who resides in a residential educational facility or institution;*
- 2) establish that findings and recommendations of the State Child Fatality Review Team are not to be introduced into evidence as a part of any civil or administrative proceedings against individuals or entities that participate in child fatality reviews;*
- 3) require county departments of social services to pay, at a minimum the monthly graduated foster care and adoption assistance rate for eligible children; and*
- 4) authorize the Secretary of Health and Human Services to join the Interstate Compact on Adoption and Medical Assistance.*

## BILL ANALYSIS:

**Section 1.** The definition of "caretaker" is amended to include "any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services."

**Background/Section 1.** This amendment makes it clear that allegations of abuse or neglect of a child by employees or volunteers of a division, institution or school operated by DHHS, such as our schools for the blind, deaf and hard of hearing, must be investigated by the local DSS.

**Section 2.** Current law is amended to expressly state that the director of the local department of social services has the responsibility for investigating any death of a child due to maltreatment or any report of suspected abuse, neglect, or dependency of a child who is in an institutional setting such as a residential child care facility or educational facility. The director would be required to determine if other children in the facility are in need of protective services or removal because of the actions of the alleged perpetrator.

**Background/Section 2.** It is currently the policy of local departments of social services to investigate reported abuse, neglect, or dependency that is allegedly occurring in a DHHS facility. However, this amendment is intended to clear up any misunderstanding with regard to the authority to the department of social service to investigate reports of abuse, neglect or dependency of a juvenile in a residential educational facility or institutional setting.

**Section 3.** Current law is amended to add a statutory requirement that every department of social services pay at least the minimum monthly standard graduated foster care and adoption assistance rates for eligible children. The current payment rate for eligible children is: \$315 for ages 0-5; \$365 for ages 6-12; and \$415 for ages 13 and over.

**Background/Section 3.** The federal Adoption and Safe Families Act of 1997 required states to reduce the jurisdictional barriers to timely adoptions of children. Requiring counties to pay the

# ENHANCE CHILD WELFARE SERVICES/AB

Page 2

minimum adoption assistance rate will assist in meeting the federal requirement. The largest portion of a foster care and adoption assistance payment is made through the use of federal funds.

Section 4. Current law is amended to provide that the findings and recommendations of the State Child Fatality Review Team are not admissible in any civil or administrative proceedings against individuals or entities that participate in child fatality reviews.

Background/Section 4. The State Child Fatality Review Team was established to conduct in-depth reviews of child fatalities that involves a child or family that was involved with a local department of social service within 12 months of the fatality. The purpose of the reviews is to identify factors that may have contributed to the conditions that lead to the fatality. In addition, the team develops recommendations for improving coordination between local and State entities that might have avoided the threat of injury or fatality and provides appropriate remedies.

Section 5. This section would add a new Article 39 to Chapter 7B. The article would authorize the Secretary of DHHS to enter into interstate agreements with out-of-state agencies for the protection of children on behalf of whom adoption assistance is being provided by DHHS, and to provide procedures for interstate adoption assistance payments, including payments for medical services. The payments for medical assistance would apply only to medical assistance for children under an adoption assistance agreement from a state that has entered into a compact with North Carolina, and the other state has also provided medical assistance to children with special needs under an adoption assistance agreement made by North Carolina. The Secretary of DHHS would be allowed to develop, participate in the development of, negotiate, and enter into interstate compacts on behalf of the State. A compact developed under this new article must contain the following:

- 1) A provision that would allow all other states to join.
- 2) A provision that would allow for withdrawal from the compact upon giving written notice.
- 3) A requirement that all protections of the compact remain in effect for the duration of the adoption assistance and apply to all children and their adoptive parents who were receiving adoption assistance from a state other than the state in which they reside on the withdrawal date.
- 4) A requirement that a written adoption assistance agreement be entered into between the adoptive parents and the state child welfare agency of the state that provides the adoption assistance that is expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state child welfare agency providing the assistance.
- 5) Any provision necessary for the proper administration of the compact.

Background/Section 5. Currently, children with special needs who are adopted in this State qualify for an exclusion of parental income and resources. However, if a special needs child is adopted in this State, but moves out of state, the child's Medicaid is terminated. The lack of Medicaid coverage can be a barrier to applicants in other states who are interested in adopting children from this State. This act would make more children eligible for Medicaid and hopefully increase the number of out-of-state adoptions.

Section 6. Section 5 of the act becomes effective October 1, 1999, and the remainder of the act becomes effective when it becomes law.

VISITOR REGISTRATION SHEET

Children's Human Res

Name of Committee

5-26-99

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

MT Burnell	GACPD
Allen Perry	"
AB Elkins	GACPD
L Dumas	Gov's Hwy Safety
J Winstead	" " "
Tim Hardesty	NC Food Banks
Pam Seaman	Covenant w/ NC Children NC Social Services Consortium
Adam Searcy	NCHAC
Un Ake	DHHS
Jackie Stelmach	DHHS - VR
Tracy Brack	" "
Esther High	DSS/DHHS
John Lamm	DSS/DHHS
Chris Marks	AOC
Pamela Best	"

VISITOR REGISTRATION SHEET

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Elizabeth P. Haves	Child Support
Glenn Daugherty	Child Support
John Kennedy	CSC - Wake
Gerald K. Robbins	DOJ
Frances Rensome	DSS
Randy Miller	CSE / DSS
Jeanne Bonds	AUC
Jenny Jeff	CSC - Curab. Co
James Mack Jones	Fl. Bragg Area Humane Chp. Delta Sigma Theta
Gileen W. Ford	Delta Sigma Theta Society, Shelby
Lure Young	Delta Sigma Theta - Shelby City
Pamela Parker Maddox	Delta Sigma Theta - Shelby
Dick Carlton	N.C. Financial Services Assn.
Larry Bewley	NCFSA
Ruth H. Helms	NCSS Comm

VISITOR REGISTRATION SHEET

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Andy Ell	NC RMA
Fun Prester	NC RMA
Marva Short-Stubblefield	Delta Sigma Theta Sorority, Inc. Fort Bragg Area Alumnae Chapter
Paula Y. Frank	DELTA Sigma Theta Sorority, Inc. Fort Bragg Area Alumnae Chapter, Ft Bragg, NC
Mabel Dora Hill	Delta Sigma Theta Sorority, Inc. Oxford-Henderson Alumnae Chapter
Bessie L. McShue	Oxford-Henderson Alumnae Chapter Delta Sigma Theta Sorority, Inc.
Grace H. Moore	Oxford-Henderson Alumnae Chapter Delta Sigma Theta Sorority, Inc.
Ester B. Kurney	Delta Sigma Theta Sorority, Inc. Oxford-Henderson Alumnae Chapter
Leola M. Spangh	Delta Sigma Theta Sorority Raleigh Alumnae
Sola C. Davis	Delta Sigma Theta Sorority Jacksonville Alumnae
Dandra H. Bragg	Delta Sigma Theta Sorority Jacksonville Alumnae
Jean C. Monroe	Delta Sigma Theta Sorority Fayetteville
Melba A. Martin	Delta Sigma Theta Sorority Fayetteville Alumnae Chapter
Judith P. Waddell	Delta Sigma Theta Sorority
Deborah Atkinson	" " "

# **Agenda**

**SENATE COMMITTEE ON CHILDREN & HUMAN RESOURCES**

**June 23, 1999**

**11:00 AM**

**Call to Order**

**HB1159    Protection From Violent Caregivers    Representative Nesbitt**  
**HB 302    Enhance Child Support Enforce./AB.    Representative Culpepper**

**Pages:**

**Femi David-Yerumo, Durham N. C. Sponsor Senator Jeanne Lucas**  
**Ike Johnston, Wilkesboro N. C. Sponsor Senator John Garwood**  
**Chandler Vataavuk, Durham, N. C. Sponsor Senator Jeanne Lucas**

**Sergeants at Arms:**

**Mary Perry**  
**Candice Ward**  
**Michael Houser**

**Next Meeting**

**To Be Announced**

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, June 23, 1999**

The Senate Committee on Children & Human Resources met at 11:00 AM on Wednesday, June 23, 1999 in room 544 of the State Legislative Office Building.

Fifteen (15) members of the Committee were present.

Senator Jeanne H. Lucas, Chair of the Committee, called the meeting to order, after which she gave a welcoming statement, opening remarks and introduced the pages and Sergeant-at-Arms.

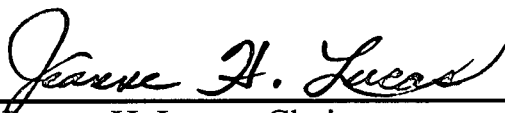
An amendment to House Bill 302, entitled Enhance Child Support Enforce./AB., was presented to Senator Lucas who then signed it. Representative Culpepper, the bills sponsor, then explained the Amendment. Senator Fox moved for adoption of the amendment, and the bill passed favorable as amended.


Senator Metcalf then presented and explained House Bill 1159, entitled Protection From Violent Caregivers, which is sponsored by Senator Nesbitt. After much discussion and interaction with legal staff, it was decided to hold the bill and discuss it at a latter date; there was no vote.

There was no next scheduled meeting, so Senator Lucas recommended meeting around her desk in the chamber to further discuss and vote on House Bill 1159 at some future date.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

REVISED

NORTH CAROLINA GENERAL ASSEMBLY  
SENATE

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

Wednesday, June 23, 1999

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

**FAVORABLE, AS AMENDED**

H.B.(SCS #1)302	Enhance Child Support Enforce./AB.
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

4

HOUSE BILL 302

Committee Substitute Favorable 4/22/99

Third Edition Engrossed 4/27/99

Senate Children & Human Resources Committee Substitute Adopted 6/1/99

Short Title: Enhance Child Support Enforce./AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD  
3 SUPPORT ENFORCEMENT.  
4 The General Assembly of North Carolina enacts:  
5  
6 PART I. ENHANCE CHILD SUPPORT ENFORCEMENT.  
7 Section 1. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17,  
8 reads as rewritten:  
9 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
10 paternity, the written acknowledgment of paternity executed by the putative father of  
11 the dependent child when accompanied by a written affirmation of paternity executed  
12 and sworn to by the mother of the dependent child shall constitute an admission of  
13 paternity; paternity and shall have the same legal effect as a judgment of paternity for  
14 the purpose of establishing a child support obligation, subject to the right of either  
15 signatory to rescind within the earlier of:  
16 (1) 60 days of the date the document is executed, or  
17 (2) The date of entry of an order establishing paternity or an order for  
18 the payment of child support.  
19 In order to rescind, a challenger must request the district court to order the  
20 recision and to include in the order specific findings of fact that the request for  
21 recision was filed with the clerk of court within 60 days of the signing of the

1 document. The court must also find that all parties, including the child support  
2 enforcement agency, if appropriate, have been served in accordance with Rule 4 of  
3 the North Carolina Rules of Civil Procedure. In the event the court orders rescision  
4 and the putative father is thereafter found not to be the father of the child, then the  
5 clerk of court shall send a copy of the order of rescision to the State Registrar of Vital  
6 Statistics. Upon receipt of an order of rescision, the State Registrar shall remove the  
7 putative father's name from the birth certificate. In the event that the putative father  
8 defaults or fails to present or prosecute the issue of paternity, the trial court shall find  
9 the putative father to be the biological father as a matter of law.

10 After 60 days have elapsed, execution of the document may be challenged in court  
11 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of  
12 proof shall be on the challenging party, and the legal responsibilities, including child  
13 support obligations, of any signatory arising from the executed documents may not be  
14 suspended during the challenge except for good cause shown.

15 A written agreement to support the child by periodic payments, which may include  
16 provision for reimbursement for medical expenses incident to the pregnancy and the  
17 birth of the child, accrued maintenance and reasonable expense of prosecution of the  
18 paternity action, when acknowledged as provided herein, filed with, and approved by  
19 a judge of the district court at any time, shall have the same force and effect as an  
20 order of support entered by that court, and shall be enforceable and subject to  
21 modification in the same manner as is provided by law for orders of the court in such  
22 cases. The written affirmation shall contain the social security number of the person  
23 executing the affirmation, and the written acknowledgment shall contain the social  
24 security number of the person executing the acknowledgment. Voluntary agreements  
25 to support shall contain the social security number of each of the parties to the  
26 agreement. The written affirmations, acknowledgments and agreements to support  
27 shall be sworn to before a certifying officer or notary public or the equivalent or  
28 corresponding person of the state, territory, or foreign country where the affirmation,  
29 acknowledgment, or agreement is made, and shall be binding on the person executing  
30 the same whether the person is an adult or a minor. The child support enforcement  
31 agency shall ensure that the mother and putative father are given oral and written  
32 notice of the legal consequences and responsibilities arising from the signing of an  
33 acknowledgement of paternity, and of any alternatives to the execution of an  
34 acknowledgment or affirmation of paternity. The mother shall not be excused from  
35 making the affirmation on the grounds that it may tend to disgrace or incriminate  
36 her; nor shall she thereafter be prosecuted for any criminal act involved in the  
37 conception of the child as to whose paternity she makes affirmation."

38 Section 2. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17,  
39 reads as rewritten:

40 "(b) Upon finding that the individual has willfully failed to comply with the child  
41 support order or with a subpoena issued pursuant to child support proceedings, and  
42 that the obligor is at least 90 days in arrears, or upon a finding that an individual  
43 subject to a subpoena issued pursuant to child support or paternity establishment  
44 proceedings has failed to comply with the subpoena, the court may enter an order

1 instituting the sanctions as provided in subsection (a) of this section. If an individual  
2 is adjudicated to be in civil or criminal contempt for a third or subsequent time for  
3 failure to comply with a child support order, the court shall enter an order instituting  
4 any one or more of the sanctions, if applicable, as provided in subsection (a) of this  
5 section. The court may stay the effectiveness of the sanctions upon conditions  
6 requiring the obligor to make full payment of the delinquency over time. Any court-  
7 ordered payment plan under this subsection shall require the individual to extinguish  
8 the delinquency within a reasonable period of time. In determining the amount to be  
9 applied to the delinquency, the court shall consider the amount of the debt and the  
10 individual's financial ability to pay. The payment shall not exceed the limits under  
11 G.S. 110-136.6(b). The individual shall make an immediate initial payment  
12 representing at least five percent (5%) of the total delinquency or five hundred  
13 dollars (\$500.00), whichever is less. Any ~~such~~ stay of an order under this subsection  
14 shall also be conditioned upon the obligor's maintenance of current child support.  
15 The court may stay the effectiveness of the sanctions against an individual subject to a  
16 subpoena issued pursuant to child support or paternity establishment proceedings  
17 upon a finding that the individual has complied with or is no longer subject to the  
18 subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
19 individual shall surrender any licenses revoked by the court's order to the child  
20 support enforcement agency and the agency shall forward a report to the appropriate  
21 licensing authority within 30 days of the order."

22 Section 3. G.S. 50-13.4(c) reads as rewritten:

23 "(c) Payments ordered for the support of a minor child shall be in such amount as  
24 to meet the reasonable needs of the child for health, education, and maintenance,  
25 having due regard to the estates, earnings, conditions, accustomed standard of living  
26 of the child and the parties, the child care and homemaker contributions of each  
27 party, and other facts of the particular case. Payments ordered for the support of a  
28 minor child shall be on a monthly basis, due and payable on the first day of each  
29 month. The requirement that orders be established on a monthly basis does not  
30 affect the availability of garnishment of disposable earnings based on an obligor's pay  
31 period.

32 The court shall determine the amount of child support payments by applying the  
33 presumptive guidelines established pursuant to subsection (c1). However, upon  
34 request of any party, the Court shall hear evidence, and from the evidence, find the  
35 facts relating to the reasonable needs of the child for support and the relative ability  
36 of each parent to provide support. If, after considering the evidence, the Court finds  
37 by the greater weight of the evidence that the application of the guidelines would not  
38 meet or would exceed the reasonable needs of the child considering the relative  
39 ability of each parent to provide support or would be otherwise unjust or  
40 inappropriate the Court may vary from the guidelines. If the court orders an amount  
41 other than the amount determined by application of the presumptive guidelines, the  
42 court shall make findings of fact as to the criteria that justify varying from the  
43 guidelines and the basis for the amount ordered.

1 Payments ordered for the support of a child shall terminate when the child reaches  
2 the age of 18 except:

- 3 (1) If the child is otherwise emancipated, payments shall terminate at  
4 that time;
- 5 (2) If the child is still in primary or secondary school when the child  
6 reaches age 18, support payments shall continue until the child  
7 graduates, otherwise ceases to attend school on a regular basis, fails  
8 to make satisfactory academic progress towards graduation, or  
9 reaches age 20, whichever comes first, unless the court in its  
10 discretion orders that payments cease at age 18 or prior to high  
11 school graduation.

12 In the case of graduation, or attaining age 20, payments shall terminate without  
13 order by the court, subject to the right of the party receiving support to show, upon  
14 motion and with notice to the opposing party, that the child has not graduated or  
15 attained the age of 20."

16 Section 4. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17,  
17 reads as rewritten:

18 "(a) An income-withholding order issued in another state may be sent to the  
19 person or entity defined or identified as the obligor's employer under the income-  
20 withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as  
21 applicable, without first filing a petition or comparable pleading or registering the  
22 order with a tribunal of this State. In the event that an obligor is receiving  
23 unemployment compensation benefits from the North Carolina Employment Security  
24 Commission, in accordance with G.S. 96-17, an income-withholding order issued in  
25 another state may be sent to the Employment Security Commission without first filing  
26 a petition or comparable pleading or registering the order with a tribunal of this  
27 State. Upon receipt of the order, the employer or the Employment Security  
28 Commission shall:

- 29 (1) Treat an income-withholding order issued in another state which  
30 appears regular on its face as if it had been issued by a tribunal of  
31 this State;
- 32 (2) Immediately provide a copy of the order to the obligor; and
- 33 (3) Distribute the funds as directed in the withholding order. The  
34 Employment Security Commission shall not withhold an amount to  
35 exceed twenty-five percent (25%) of the unemployment  
36 compensation benefits."

37 Section 5. G.S. 110-136.2(f) reads as rewritten:

38 "(f) In the absence of a voluntary assignment of unemployment compensation  
39 benefits, the Department of Health and Human Services shall implement income  
40 withholding as provided in this Article for IV-D cases. The amount withheld shall not  
41 exceed twenty-five percent (25%) of the unemployment compensation benefits.  
42 Notice of the requirement to withhold shall be served upon the Employment Security  
43 Commission and payment shall be made by the Employment Security Commission  
44 directly to the Department of Health and Human Services pursuant to G.S. 96-17. ~~96-~~

1 17 or to another state under G.S. 52C-5-501. Except for the requirement to withhold  
2 from unemployment compensation benefits and the forwarding of withheld funds to  
3 the Department of Health and Human Services; Services or to another state under  
4 G.S. 52C-5-501, the Employment Security Commission is exempt from the provisions  
5 of G.S. 110-136.8."

6 Section 6. Article 9 of Chapter 110 of the General Statutes is amended  
7 by adding a new section to read:

8 "§ 110-139.3. High-volume, automated administrative enforcement in interstate cases  
9 (AED).

10 Upon request of another state, the Department of Health and Human Services  
11 shall use automated data processing to search State databases and determine if  
12 information is available regarding a parent who owes a child support obligation and  
13 shall seize identified assets using the same techniques as used in intrastate cases. Any  
14 request by another state to enforce support orders shall certify the amount of each  
15 obligor's debt and that appropriate due process requirements have been met by the  
16 requesting state with respect to each obligor. The Department of Health and Human  
17 Services shall likewise transmit to other states requests for assistance in enforcing  
18 support orders through high-volume, automated administrative enforcement where  
19 appropriate."

20 Section 7. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17, reads  
21 as rewritten:

22 "§ 108A-69. Employer obligations.

23 (a) As used in this section and in G.S. 108A-70:

24 (1) 'Health benefit plan' means an accident and health insurance  
25 policy or certificate; a nonprofit hospital or medical service  
26 corporation contract; a health maintenance organization subscriber  
27 contract; a plan provided by a multiple employer welfare  
28 arrangement; the Teachers' and State Employees' Comprehensive  
29 Major Medical Plan under Chapter 135 of the General Statutes; or  
30 a plan provided by another benefit arrangement. 'Health benefit  
31 plan' does not mean a Medicare supplement policy as defined in  
32 G.S. 58-54-1(5).

33 (2) 'Health insurer' means any health insurance company subject to  
34 Articles 1 through 63 of Chapter 58 of the General Statutes,  
35 including a multiple employee welfare arrangement, and any  
36 corporation subject to Articles 65 and 67 of Chapter 58 of the  
37 General Statutes; ~~and means~~ a group health plan, as defined in  
38 Section 607(1) of the Employee Retirement Income Security Act of  
39 ~~1974.~~ 1974; and the Teachers' and State Employees'  
40 Comprehensive Major Medical Plan under Chapter 135 of the  
41 General Statutes.

42 (b) If a parent is required by a court or administrative order to provide health  
43 benefit plan coverage for a child, and the parent is eligible for family health benefit

1 plan coverage through an employer ~~doing business in this State~~, employer, the  
2 employer:

- 3 (1) Must allow the parent to enroll, under family coverage, the child if  
4 the child would be otherwise eligible for coverage without regard  
5 to any enrollment season restrictions.
- 6 (2) Must enroll the child under family coverage upon application of  
7 the child's other parent or upon receipt of notice from the  
8 Department of Health and Human Services in connection with its  
9 administration of the Medical Assistance or Child Support  
10 Enforcement Program if the parent is enrolled but fails to make  
11 application to obtain coverage for the child.
- 12 (3) May not disenroll or eliminate coverage of the child unless:
  - 13 a. The employer is provided satisfactory written evidence that:
    - 14 1. The court or administrative order is no longer in  
15 effect; or
    - 16 2. The child is or will be enrolled in comparable health  
17 benefit plan coverage that will take effect not later  
18 than the effective date of disenrollment; or
  - 19 b. The employer has eliminated family health benefit plan  
20 coverage for all of its employees.
- 21 (4) Must withhold from the employee's compensation the employee's  
22 share, if any, of premiums for health benefit plan coverage, not to  
23 exceed the maximum amount permitted to be withheld under  
24 section 303(b) of the federal Consumer Credit Protection Act, as  
25 amended; and must pay this amount to the health insurer; subject  
26 to regulations, if any, adopted by the Secretary of the U.S.  
27 Department of Health and Human Services."

28 Section 8. G.S. 58-51-115(a) reads as rewritten:

29 "(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

- 30 (1) 'Health benefit plan' means any accident and health insurance  
31 policy or certificate; a nonprofit hospital or medical service  
32 corporation contract; a health maintenance organization subscriber  
33 contract; a plan provided by a multiple employer welfare  
34 arrangement; the Teachers' and State Employees' Comprehensive  
35 Major Medical Plan under Chapter 135 of the General Statutes; or  
36 a plan provided by another benefit arrangement. 'Health benefit  
37 plan' does not mean a Medicare supplement policy as defined in  
38 G.S. 58-54-1(5).
- 39 (2) 'Health insurer' means any health insurance company subject to  
40 Articles 1 through 63 of this Chapter, including a multiple  
41 employee welfare arrangement, and any corporation subject to  
42 Articles 65 and 67 of this Chapter; ~~and means~~ a group health plan,  
43 as defined in section 607(1) of the Employee Retirement Income  
44 Security Act of ~~1974~~. 1974; and the Teachers' and State

1                   Employees' Comprehensive Major Medical Plan under Chapter  
2                   135 of the General Statutes."

3                   Section 9. G.S. 15A-1344.1(a) reads as rewritten:

4                   "(a) When the court requires, as a condition of supervised or unsupervised  
5 probation, that a defendant support his children, the court may order at any time that  
6 support payments be made to the clerk of court for remittance to the party entitled to  
7 receive the payments. For child support orders initially entered on or after January  
8 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~  
9 apply. If child support is to be paid through income withholding, the payments shall  
10 be made in accordance with G.S. 110-139(f)."

11                  Section 10. G.S. 50-13.9(b) reads as rewritten:

12                  "(b) After entry of such an order by the court, the clerk of superior court shall  
13 transmit child support payments that are made to the clerk in IV-D cases to the  
14 Department of Health and Human Services for appropriate distribution. Pursuant to  
15 G.S. 110-139(f), amounts withheld by employers in IV-D and in non-IV-D cases shall  
16 be sent directly from the employer to the State Child Support Collection and  
17 Disbursement Unit for disbursement to the custodial parent or other party entitled to  
18 receive them, unless a court order requires otherwise. In all other cases, non-IV-D  
19 cases in which wage withholding is not in effect, the clerk shall transmit the payments  
20 to the custodial parent or other party entitled to receive them, unless a court order  
21 requires otherwise."

22                  Section 11. G.S. 50-13.9(b2) reads as rewritten:

23                  "(b2) In a non-IV-D case:

24                   (1) The clerk of court shall have the responsibility and authority for  
25 monitoring the obligor's compliance with all child support orders  
26 in the case and for initiating any enforcement procedures that it  
27 considers appropriate. In non-IV-D cases subject to income  
28 withholding, the State Child Support Collection and Disbursement  
29 Unit shall notify the clerk of court of all payments made in non-  
30 IV-D income-withholding cases so that the clerk of court can  
31 initiate enforcement proceedings as provided in subsection (d) of  
32 this section.

33                   (2) The clerk of court shall maintain all official records in the case.

34                   (3) The clerk of court shall maintain any other records needed to  
35 monitor the obligor's compliance with or to enforce the child  
36 support orders in the case, including records showing the amount  
37 of each payment of child support received from or on behalf of the  
38 obligor, along with the dates on which each payment was  
39 received."

40                  Section 12. G.S. 110-36.3 is amended by adding a new subsection to  
41 read:

42                  "(d1) Employment Verifications. -- For the purpose of establishing or modifying a  
43 child support order, the amount of the obligor's gross income may be established by a  
44 written statement signed by the obligor's employer or the employer's designee or an

Employee Verification form produced by the Automated Collections Tracking System that has been completed and signed by the obligor's employer or the employer's designee. A written statement signed by the employer of the obligor or the employer's designee that sets forth an obligor's gross income, as well as an Employee Verification form signed by the obligor's employer or the employer's designee, shall be admissible evidence in any action establishing or modifying a child support order."

Section 13. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17 and Section 7 of S.L. 1998-176, reads as rewritten:

"(b) Payor's responsibilities. A payor who has been properly served with a notice to withhold is required to:

- (1) Withhold from the obligor's disposable income and, within 7 business days of the date the obligor is paid, send to the ~~clerk of superior court or State collection and disbursement unit~~, Child Support Collection and Disbursement Unit, as specified in the notice, the amount specified in the notice and the date the amount was withheld, but in no event more than the amount allowed by G.S. 110-136.6; however, if a lesser amount of disposable income is available for any pay period, the payor shall either: (a) compute and send the appropriate amount to the ~~clerk of court~~, State Child Support Collection and Disbursement Unit, using the percentages as provided in G.S. 110-136.6, or (b) request the initiating party to inform the payor of the proper amount to be withheld for that period;
- (2) Continue withholding until further notice from the IV-D agency, the clerk of superior court, or the State collection and disbursement unit;
- (3) Withhold for child support before withholding pursuant to any other legal process under State law against the same disposable income;
- (4) Begin withholding from the first payment due the obligor in the first pay period that occurs 14 days following the date the notice of the obligation to withhold was served on the payor;
- (5) Promptly notify the obligee in a IV-D case, or the clerk of superior court or the State collection and disbursement unit in a non-IV-D case, in writing:
  - a. If there are one or more orders of child support withholding for the obligor;
  - a1. If there are one or more orders of alimony or postseparation support withholding for the obligor;
  - b. When the obligor terminates employment or otherwise ceases to be entitled to disposable income from the payor, and provide the obligor's last known address, and the name and address of his new employer, if known;

1 c. Of the payor's inability to comply with the withholding for  
2 any reason; and

3 (6) Cooperate fully with the initiating party in the verification of the  
4 amount of the obligor's disposable income."

5 Section 14. G.S. 110-136.8(d) reads as rewritten:

6 "(d) The payor may combine amounts withheld from obligors' disposable incomes  
7 in a single payment to ~~each clerk of superior court~~ the State Child Support  
8 Collection and Disbursement Unit if the payor separately identifies by name and case  
9 number the portion of the single payment attributable to each individual obligor and  
10 the date that each payment was withheld from the obligor's disposable income."

11 Section 15. G.S. 110-136.9 reads as rewritten:

12 "§ 110-136.9. Payment of withheld funds.

13 In IV-D cases, cases and in non-IV-D cases in which the support order was initially  
14 issued in this State on or after January 1, 1994, and in which the income of the  
15 noncustodial parent is subject to income withholding, when required by federal or  
16 State law or regulations or by court order, ~~the clerk of superior court~~ State Child  
17 Support Collection and Disbursement Unit shall ~~transmit~~ distribute payments  
18 received from ~~payors to the Department of Health and Human Services for~~  
19 ~~appropriate distribution.~~ payors. In all other cases, unless a court order requires  
20 otherwise, the clerk of superior court shall transmit the payments to the custodial  
21 parent."  
22

23 **PART II. ENHANCE CHILD SUPPORT ENFORCEMENT -- APPROPRIATION**  
24 **REQUIRED.**

25 Section 16. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17,  
26 reads as rewritten:

27 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
28 paternity, the written acknowledgment of paternity executed by the putative father of  
29 the dependent child when accompanied by a written affirmation of paternity executed  
30 and sworn to by the mother of the dependent child shall constitute an admission of  
31 paternity; paternity and shall have the same legal effect as a judgment of paternity for  
32 the purpose of establishing a child support obligation, subject to the right of either  
33 signatory to rescind within the earlier of:

34 (1) 60 days of the date the document is executed, or

35 (2) The date of entry of an order establishing paternity or an order for  
36 the payment of child support.

37 In order to rescind, a challenger must request the district court to order the  
38 rescision and to include in the order specific findings of fact that the request for  
39 rescision was filed with the clerk of court within 60 days of the signing of the  
40 document. The court must also find that all parties, including the child support  
41 enforcement agency, if appropriate, have been served in accordance with Rule 4 of  
42 the North Carolina Rules of Civil Procedure. In the event the court orders rescision  
43 and the putative father is thereafter found not to be the father of the child, then the  
44 clerk of court shall send a copy of the order of rescision to the State Registrar of Vital

1 Statistics. Upon receipt of an order of recision, the State Registrar shall remove the  
2 putative father's name from the birth certificate. In the event that the putative father  
3 defaults or fails to present or prosecute the issue of paternity, the trial court shall find  
4 the putative father to be the biological father as a matter of law.

5 After 60 days have elapsed, execution of the document may be challenged in court  
6 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of  
7 proof shall be on the challenging party, and the legal responsibilities, including child  
8 support obligations, of any signatory arising from the executed documents may not be  
9 suspended during the challenge except for good cause shown.

10 A written agreement to support the child by periodic payments, which may include  
11 provision for reimbursement for medical expenses incident to the pregnancy and the  
12 birth of the child, accrued maintenance and reasonable expense of prosecution of the  
13 paternity action, when acknowledged as provided herein, filed with, and approved by  
14 a judge of the district court at any time, shall have the same force and effect as an  
15 order of support entered by that court, and shall be enforceable and subject to  
16 modification in the same manner as is provided by law for orders of the court in such  
17 cases. The written affirmation shall contain the social security number of the person  
18 executing the affirmation, and the written acknowledgment shall contain the social  
19 security number of the person executing the acknowledgment. Voluntary agreements  
20 to support shall contain the social security number of each of the parties to the  
21 agreement. The written affirmations, acknowledgments and agreements to support  
22 shall be sworn to before a certifying officer or notary public or the equivalent or  
23 corresponding person of the state, territory, or foreign country where the affirmation,  
24 acknowledgment, or agreement is made, and shall be binding on the person executing  
25 the same whether the person is an adult or a minor. The child support enforcement  
26 agency shall ensure that the mother and putative father are given oral and written  
27 notice of the legal consequences and responsibilities arising from the signing of an  
28 acknowledgement of paternity, and of any alternatives to the execution of an  
29 acknowledgment or affirmation of paternity. The mother shall not be excused from  
30 making the affirmation on the grounds that it may tend to disgrace or incriminate  
31 her; nor shall she thereafter be prosecuted for any criminal act involved in the  
32 conception of the child as to whose paternity she makes affirmation."

33 Section 17. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17,  
34 reads as rewritten:

35 "(b) Upon finding that the individual has willfully failed to comply with the child  
36 support order or with a subpoena issued pursuant to child support proceedings, and  
37 that the obligor is at least 90 days in arrears, or upon a finding that an individual  
38 subject to a subpoena issued pursuant to child support or paternity establishment  
39 proceedings has failed to comply with the subpoena, the court may enter an order  
40 instituting the sanctions as provided in subsection (a) of this section. If an individual  
41 is adjudicated to be in civil or criminal contempt for a third or subsequent time for  
42 failure to comply with a child support order, the court shall enter an order instituting  
43 any one or more of the sanctions, if applicable, as provided in subsection (a) of this  
44 section. The court may stay the effectiveness of the sanctions upon conditions

1 requiring the obligor to make full payment of the delinquency over time. Any court-  
2 ordered payment plan under this subsection shall require the individual to extinguish  
3 the delinquency within a reasonable period of time. In determining the amount to be  
4 applied to the delinquency, the court shall consider the amount of the debt and the  
5 individual's financial ability to pay. The payment shall not exceed the limits under  
6 G.S. 110-136.6(b). The individual shall make an immediate initial payment  
7 representing at least five percent (5%) of the total delinquency or five hundred  
8 dollars (\$500.00), whichever is less. Any such stay of an order under this subsection  
9 shall also be conditioned upon the obligor's maintenance of current child support.  
10 The court may stay the effectiveness of the sanctions against an individual subject to a  
11 subpoena issued pursuant to child support or paternity establishment proceedings  
12 upon a finding that the individual has complied with or is no longer subject to the  
13 subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
14 individual shall surrender any licenses revoked by the court's order to the child  
15 support enforcement agency and the agency shall forward a report to the appropriate  
16 licensing authority within 30 days of the order."

17 Section 18. G.S. 50-13.4(c) reads as rewritten:

18 "(c) Payments ordered for the support of a minor child shall be in such amount as  
19 to meet the reasonable needs of the child for health, education, and maintenance,  
20 having due regard to the estates, earnings, conditions, accustomed standard of living  
21 of the child and the parties, the child care and homemaker contributions of each  
22 party, and other facts of the particular case. Payments ordered for the support of a  
23 minor child shall be on a monthly basis, due and payable on the first day of each  
24 month. The requirement that orders be established on a monthly basis does not  
25 affect the availability of garnishment of disposable earnings based on an obligor's pay  
26 period.

27 The court shall determine the amount of child support payments by applying the  
28 presumptive guidelines established pursuant to subsection (c1). However, upon  
29 request of any party, the Court shall hear evidence, and from the evidence, find the  
30 facts relating to the reasonable needs of the child for support and the relative ability  
31 of each parent to provide support. If, after considering the evidence, the Court finds  
32 by the greater weight of the evidence that the application of the guidelines would not  
33 meet or would exceed the reasonable needs of the child considering the relative  
34 ability of each parent to provide support or would be otherwise unjust or  
35 inappropriate the Court may vary from the guidelines. If the court orders an amount  
36 other than the amount determined by application of the presumptive guidelines, the  
37 court shall make findings of fact as to the criteria that justify varying from the  
38 guidelines and the basis for the amount ordered.

39 Payments ordered for the support of a child shall terminate when the child reaches  
40 the age of 18 except:

- 41 (1) If the child is otherwise emancipated, payments shall terminate at  
42 that time;
- 43 (2) If the child is still in primary or secondary school when the child  
44 reaches age 18, support payments shall continue until the child

1 graduates, otherwise ceases to attend school on a regular basis, fails  
2 to make satisfactory academic progress towards graduation, or  
3 reaches age 20, whichever comes first, unless the court in its  
4 discretion orders that payments cease at age 18 or prior to high  
5 school graduation.

6 In the case of graduation, or attaining age 20, payments shall terminate without  
7 order by the court, subject to the right of the party receiving support to show, upon  
8 motion and with notice to the opposing party, that the child has not graduated or  
9 attained the age of 20."

10 Section 19. G.S. 50-13.4(d) reads as rewritten:

11 "(d) In non-IV-D cases, payments for the support of a minor child shall be  
12 ordered to be paid to the person having custody of the child or any other proper  
13 person, agency, organization or institution, or to the ~~court~~, State Child Support  
14 Collection and Disbursement Unit, for the benefit of the child. In IV-D cases,  
15 payments for the support of a minor child shall be ordered to be paid to the ~~court or~~  
16 ~~other proper State agency~~ Child Support Collection and Disbursement Unit for the  
17 benefit of the child."

18 Section 20. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17,  
19 reads as rewritten:

20 "(a) An income-withholding order issued in another state may be sent to the  
21 person or entity defined or identified as the obligor's employer under the income-  
22 withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as  
23 applicable, without first filing a petition or comparable pleading or registering the  
24 order with a tribunal of this State. In the event that an obligor is receiving  
25 unemployment compensation benefits from the North Carolina Employment Security  
26 Commission, in accordance with G.S. 96-17, an income-withholding order issued in  
27 another state may be sent to the Employment Security Commission without first filing  
28 a petition or comparable pleading or registering the order with a tribunal of this  
29 State. Upon receipt of the order, the employer or the Employment Security  
30 Commission shall:

- 31 (1) Treat an income-withholding order issued in another state which  
32 appears regular on its face as if it had been issued by a tribunal of  
33 this State;  
34 (2) Immediately provide a copy of the order to the obligor; and  
35 (3) Distribute the funds as directed in the withholding order. The  
36 Employment Security Commission shall not withhold an amount to  
37 exceed twenty-five percent (25%) of the unemployment  
38 compensation benefits."

39 Section 21. G.S. 110-136.2(f) reads as rewritten:

40 "(f) In the absence of a voluntary assignment of unemployment compensation  
41 benefits, the Department of Health and Human Services shall implement income  
42 withholding as provided in this Article for IV-D cases. The amount withheld shall not  
43 exceed twenty-five percent (25%) of the unemployment compensation benefits.  
44 Notice of the requirement to withhold shall be served upon the Employment Security

1 Commission and payment shall be made by the Employment Security Commission  
2 directly to the Department of Health and Human Services pursuant to G.S. 96-17. 96-  
3 17 or to another state under G.S. 52C-5-501. Except for the requirement to withhold  
4 from unemployment compensation benefits and the forwarding of withheld funds to  
5 the Department of Health and Human Services, Services or to another state under  
6 G.S. 52C-5-501, the Employment Security Commission is exempt from the provisions  
7 of G.S. 110-136.8."

8 Section 22. Article 9 of Chapter 110 of the General Statutes is amended  
9 by adding a new section to read:

10 "§ 110-139.3. High-volume, automated administrative enforcement in interstate cases  
11 (AED).

12 Upon request of another state, the Department of Health and Human Services  
13 shall use automated data processing to search State databases and determine if  
14 information is available regarding a parent who owes a child support obligation and  
15 shall seize identified assets using the same techniques as used in intrastate cases. Any  
16 request by another state to enforce support orders shall certify the amount of each  
17 obligor's debt and that appropriate due process requirements have been met by the  
18 requesting state with respect to each obligor. The Department of Health and Human  
19 Services shall likewise transmit to other states requests for assistance in enforcing  
20 support orders through high-volume, automated administrative enforcement where  
21 appropriate."

22 Section 23. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17,  
23 reads as rewritten:

24 "§ 108A-69. Employer obligations.

25 (a) As used in this section and in G.S. 108A-70:

26 (1) 'Health benefit plan' means an accident and health insurance  
27 policy or certificate; a nonprofit hospital or medical service  
28 corporation contract; a health maintenance organization subscriber  
29 contract; a plan provided by a multiple employer welfare  
30 arrangement; the Teachers' and State Employees' Comprehensive  
31 Major Medical Plan under Chapter 135 of the General Statutes; or  
32 a plan provided by another benefit arrangement. 'Health benefit  
33 plan' does not mean a Medicare supplement policy as defined in  
34 G.S. 58-54-1(5).

35 (2) 'Health insurer' means any health insurance company subject to  
36 Articles 1 through 63 of Chapter 58 of the General Statutes,  
37 including a multiple employee welfare arrangement, and any  
38 corporation subject to Articles 65 and 67 of Chapter 58 of the  
39 General Statutes; ~~and means~~ a group health plan, as defined in  
40 Section 607(1) of the Employee Retirement Income Security Act of  
41 1974. ~~1974;~~ and the Teachers' and State Employees'  
42 Comprehensive Major Medical Plan under Chapter 135 of the  
43 General Statutes.

(b) If a parent is required by a court or administrative order to provide health benefit plan coverage for a child, and the parent is eligible for family health benefit plan coverage through an employer ~~doing business in this State~~, employer, the employer:

- (1) Must allow the parent to enroll, under family coverage, the child if the child would be otherwise eligible for coverage without regard to any enrollment season restrictions.
- (2) Must enroll the child under family coverage upon application of the child's other parent or upon receipt of notice from the Department of Health and Human Services in connection with its administration of the Medical Assistance or Child Support Enforcement Program if the parent is enrolled but fails to make application to obtain coverage for the child.
- (3) May not disenroll or eliminate coverage of the child unless:
  - a. The employer is provided satisfactory written evidence that:
    1. The court or administrative order is no longer in effect; or
    2. The child is or will be enrolled in comparable health benefit plan coverage that will take effect not later than the effective date of disenrollment; or
  - b. The employer has eliminated family health benefit plan coverage for all of its employees.
- (4) Must withhold from the employee's compensation the employee's share, if any, of premiums for health benefit plan coverage, not to exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as amended; and must pay this amount to the health insurer; subject to regulations, if any, adopted by the Secretary of the U.S. Department of Health and Human Services."

Section 24. G.S. 58-51-115(a) reads as rewritten:

"(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

- (1) 'Health benefit plan' means any accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; the Teachers' and State Employees' Comprehensive Major Medical Plan under Chapter 135 of the General Statutes; or a plan provided by another benefit arrangement. 'Health benefit plan' does not mean a Medicare supplement policy as defined in G.S. 58-54-1(5).
- (2) 'Health insurer' means any health insurance company subject to Articles 1 through 63 of this Chapter, including a multiple employee welfare arrangement, and any corporation subject to Articles 65 and 67 of this Chapter; ~~and means a group health plan,~~

1 as defined in section 607(1) of the Employee Retirement Income  
2 Security Act of ~~1974.~~ 1974; and the Teachers' and State  
3 Employees' Comprehensive Major Medical Plan under Chapter  
4 135 of the General Statutes."

5 Section 25. G.S. 15A-1344.1(a) reads as rewritten:

6 "(a) When the court requires, as a condition of supervised or unsupervised  
7 probation, that a defendant support his children, the court may order at any time that  
8 support payments be made to the clerk of court for remittance to the party entitled to  
9 receive the payments. For child support orders initially entered on or after January  
10 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~  
11 apply. If child support is to be paid through income withholding, the payments shall  
12 be made in accordance with G.S. 110-139(f)."

13 Section 26. G.S. 50-13.9(a) reads as rewritten:

14 "(a) Upon its own motion or upon motion of either party, the court may order at  
15 any time that support payments be made to the ~~clerk of court~~ State Child Support  
16 Collection and Disbursement Unit for remittance to the party entitled to receive the  
17 payments. For child support orders initially entered on or after January 1, 1994, the  
18 immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply."

19 Section 27. G.S. 50-13.9(b) reads as rewritten:

20 "(b) After entry of ~~such~~ an order by the ~~court,~~ court under subsection (a) of this  
21 section, the clerk of superior court State Child Support Collection and Disbursement  
22 Unit shall transmit child support payments that are made to the clerk in IV-D cases  
23 to the Department of Health and Human Services for appropriate distribution. In all  
24 other cases, the clerk shall transmit the payments to the custodial parent or other  
25 party entitled to receive them, unless a court order requires otherwise."

26 Section 28. G.S. 50-13.9(b2) reads as rewritten:

27 "(b2) In a non-IV-D case:

28 (1) The clerk of court shall have the responsibility and authority for  
29 monitoring the obligor's compliance with all child support orders  
30 in the case and for initiating any enforcement procedures that it  
31 considers appropriate. The State Child Support Collection and  
32 Disbursement Unit shall notify the clerk of court of all payments  
33 made in non-IV-D cases so that the clerk of court can initiate  
34 enforcement proceedings as provided in subsection (d) of this  
35 section.

36 (2) The clerk of court shall maintain all official records in the case.

37 (3) The clerk of court shall maintain any other records needed to  
38 monitor the obligor's compliance with or to enforce the child  
39 support orders in the case, including records showing the amount  
40 of each payment of child support received from or on behalf of the  
41 obligor, along with the dates on which each payment was  
42 received."

43 Section 29. G.S. 50-13.9(d) reads as rewritten:

1    "(d) In a non-IV-D case, when the clerk of superior court is notified by the State  
2 Child Support Collection and Disbursement Unit that an obligor fails has failed to  
3 make a required payment of child support and is in arrears, the clerk of superior  
4 court shall mail by regular mail to the last known address of the obligor a notice of  
5 delinquency. The notice shall set out the amount of child support currently due and  
6 shall demand immediate payment of ~~said~~ that amount. The notice shall also state that  
7 failure to make immediate payment will result in the issuance by the court of an  
8 enforcement order requiring the obligor to appear before a district court judge and  
9 show cause why the support obligation should not be enforced by income  
10 withholding, contempt of court, revocation of licensing privileges, or other  
11 appropriate means. Failure to receive the delinquency notice ~~shall~~ is not be a defense  
12 in any subsequent proceeding. Sending the notice of delinquency ~~shall be~~ is in the  
13 discretion of the clerk if the clerk has, during the previous 12 months, sent a notice  
14 or notices of delinquency to the obligor for nonpayment, or if income withholding  
15 has been implemented against the obligor or the obligor has been previously found in  
16 contempt for nonpayment under the same child support order.

17    If the arrearage is not paid in full within 21 days after the mailing of the  
18 delinquency notice, or without waiting the 21 days if the clerk has elected not to mail  
19 a delinquency notice for any of the reasons provided ~~herein~~, in this subsection, the  
20 clerk shall cause an enforcement order to be issued and shall issue a notice of hearing  
21 before a district court judge. The enforcement order shall order the obligor to appear  
22 and show cause why ~~he~~ the obligor should not be subjected to income withholding or  
23 adjudged in contempt of court, or both, and shall order the obligor to bring to the  
24 hearing records and information relating to ~~his~~ the obligor's employment, ~~his~~ the  
25 obligor's licensing privileges, and the amount and sources of ~~his~~ the obligor's  
26 disposable income. The enforcement order shall state:

- 27           (1) That the obligor is under a court order to provide child support,  
28           the name of each child for whose benefit support is due, and  
29           information sufficient to identify the order;
- 30           (2) That the obligor is delinquent and the amount of overdue support;
- 31           (2a) That the court may order the revocation of some or all of the  
32           obligor's licensing privileges if the obligor is delinquent in an  
33           amount equal to the support due for one month;
- 34           (3) That the court may order income withholding if the obligor is  
35           delinquent in an amount equal to the support due for one month;
- 36           (4) That income withholding, if implemented, will apply to the  
37           obligor's current payors and all subsequent payors and will be  
38           continued until terminated pursuant to G.S. 110-136.10;
- 39           (5) That failure to bring to the hearing records and information  
40           relating to his employment and the amount and sources of his  
41           disposable income will be grounds for contempt;
- 42           (6) That if income withholding is not an available or appropriate  
43           remedy, the court may determine whether the obligor is in  
44           contempt or whether any other enforcement remedy is appropriate.

1 The enforcement order may be signed by the clerk or a district court judge, and shall  
2 be served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.  
3 The clerk shall also notify the party to whom support is owed of the pending hearing.  
4 The clerk may withdraw the order to the supporting party upon receipt of the  
5 delinquent payment. On motion of the person to whom support is owed, with the  
6 approval of the district court judge, if the district court judge finds it is in the best  
7 interest of the child, no enforcement order shall be issued.

8 When the matter comes before the court, the court shall proceed as in the case of  
9 a motion for income withholding under G.S. 110-136.5. If income withholding is not  
10 an available or adequate remedy, the court may proceed with contempt, imposition of  
11 a lien, or other available, appropriate enforcement remedies.

12 This subsection shall apply only to non-IV-D cases, except that the clerk shall issue  
13 an enforcement order in a IV-D case when requested to do so by an IV-D obligee."

14 Section 30. G.S. 50-13.10(e) reads as rewritten:

15 "(e) When a child support payment ~~which that~~ is to be made to ~~a clerk of~~  
16 ~~superior court~~ the State Child Support Collection and Disbursement Unit is not  
17 received by ~~the clerk~~ the Unit when due, the payment is not a past due child support  
18 payment for purposes of this section, and no arrearage accrues, if the payment is  
19 actually made to and received on time by the party entitled to receive it and ~~such~~  
20 that receipt is evidenced by a canceled check, money order, or contemporaneously  
21 executed and dated written receipt. Nothing in this section shall affect the duties of  
22 the clerks or the IV-D agency under this Chapter or Chapter 110 of the General  
23 Statutes with respect to payments not received by ~~them~~ the Unit on time, but the  
24 court, in any action to enforce such a payment, may enter an order directing the  
25 clerk or the IV-D agency to enter the payment on ~~his~~ the clerk's or IV-D agency's  
26 records as having been made on time, if the court finds that the payment was in fact  
27 received by the party entitled to receive it as provided in this subsection."

28 Section 31. G.S. 110-36.3 is amended by adding a new subsection to  
29 read:

30 "(d1) Employment Verifications. -- For the purpose of establishing or modifying a  
31 child support order, the amount of the obligor's gross income may be established by a  
32 written statement signed by the obligor's employer or the employer's designee or an  
33 Employee Verification form produced by the Automated Collections Tracking System  
34 that has been completed and signed by the obligor's employer or the employer's  
35 designee. A written statement signed by the employer of the obligor or the  
36 employer's designee that sets forth an obligor's gross income, as well as an Employee  
37 Verification form signed by the obligor's employer or the employer's designee, shall  
38 be admissible evidence in any action establishing or modifying a child support order."

39 Section 32. G.S. 110-136(d) reads as rewritten:

40 "(d) Upon receipt of an order of garnishment, the garnishee shall transmit without  
41 delay to the ~~clerk of superior court~~ State Child Support Collection and Disbursement  
42 Unit the amount ordered by the court to be garnished. These funds shall be disbursed  
43 to the party designated by the court which in those cases of dependent children

1 receiving public assistance shall be the North Carolina Department of Health and  
2 Human Services."

3 Section 33. G.S. 110-136.5(b) reads as rewritten:

4 "(b) Withholding Based on Obligor's Request. The obligor may request at any  
5 time that income withholding be implemented. The request may be made either  
6 verbally in open court or by written request.

7 (1) A written request for withholding shall state:

- 8 a. That the obligor is under a court order to provide child  
9 support, and information sufficient to identify the order;
- 10 b. Whether the obligor is delinquent and the amount of any  
11 overdue support;
- 12 c. The name of each child for whose benefit support is  
13 payable;
- 14 d. The name, location, and mailing address of the payor or  
15 payors from whom the obligor receives disposable income  
16 and the amount of the obligor's monthly disposable income  
17 from each payor;
- 18 e. That the obligor understands that withholding, if  
19 implemented, will apply to the obligor's current payors and  
20 all subsequent payors and will be continued until terminated  
21 pursuant to G.S. 110-136.10; and
- 22 f. That the obligor understands that the amount withheld will  
23 include an amount sufficient to pay current child support,  
24 an additional amount toward liquidation of any arrearages,  
25 and a two dollar (\$2.00) processing fee to be retained by the  
26 employer for each withholding, but that the total amount  
27 withheld may not exceed the following percent of disposable  
28 income:
  - 29 1. Forty percent (40%) if there is only one order for  
30 withholding;
  - 31 2. Forty-five percent (45%) if there is more than one  
32 order for withholding and the obligor is supporting  
33 other dependent children or his or her spouse; or
  - 34 3. Fifty percent (50%) if there is more than one order  
35 for withholding and the obligor is not supporting  
36 other dependent children or a spouse.

37 (2) A written request for withholding shall be filed in the office of the  
38 clerk of superior court ~~to which the obligor is directed to make~~  
39 ~~child support payments.~~ of the court that entered the order for  
40 child support. If the request states and the clerk verifies that the  
41 obligor is not delinquent, the court may enter an order for  
42 withholding without further notice or hearing. If the request states  
43 or the clerk finds that the obligor is delinquent, the matter shall be  
44 scheduled for hearing unless the obligor in writing waives his right

1 to a hearing and consents to the entry of an order for withholding  
2 of an amount the court determines to be appropriate. The court  
3 may require a hearing in any case. Notice of any hearing under  
4 this subdivision shall be sent to the obligee."

5 Section 34. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17  
6 and Section 7 of S.L. 1998-176, reads as rewritten:

7 "(b) Payor's responsibilities. A payor who has been properly served with a notice  
8 to withhold is required to:

- 9 (1) Withhold from the obligor's disposable income and, within 7  
10 business days of the date the obligor is paid, send to the ~~clerk of~~  
11 ~~superior court or State collection and disbursement unit, as~~  
12 ~~specified in the notice, State Child Support Collection and~~  
13 ~~Disbursement Unit~~ the amount specified in the notice and the date  
14 the amount was withheld, but in no event more than the amount  
15 allowed by G.S. 110-136.6; however, if a lesser amount of  
16 disposable income is available for any pay period, the payor shall  
17 either: (a)  
18 a. ~~compute~~ Compute, and send the appropriate amount to the  
19 ~~clerk of court, State Child Support Collection and~~  
20 ~~Disbursement Unit~~, using the percentages as provided in  
21 ~~G.S. 110-136.6, 110-136.6; or (b)~~  
22 b. ~~request~~ Request the initiating party to inform the payor of  
23 the proper amount to be withheld for that period;  
24 (2) Continue withholding until further notice from the IV-D agency,  
25 the clerk of superior court, or the ~~State collection and~~  
26 ~~disbursement unit, Child Support Collection and Disbursement~~  
27 ~~Unit;~~  
28 (3) Withhold for child support before withholding pursuant to any  
29 other legal process under State law against the same disposable  
30 income;  
31 (4) Begin withholding from the first payment due the obligor in the  
32 first pay period that occurs 14 days following the date the notice of  
33 the obligation to withhold was served on the payor;  
34 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior  
35 court or the ~~State collection and disbursement unit~~ Child Support  
36 Collection and Disbursement Unit in a non-IV-D case, in writing:  
37 a. If there are one or more orders of child support withholding  
38 for the obligor;  
39 a1. If there are one or more orders of alimony or postseparation  
40 support withholding for the obligor;  
41 b. When the obligor terminates employment or otherwise  
42 ceases to be entitled to disposable income from the payor,  
43 and provide the obligor's last known address, and the name  
44 and address of his new employer, if known;

1 c. Of the payor's inability to comply with the withholding for  
2 any reason; and

3 (6) Cooperate fully with the initiating party in the verification of the  
4 amount of the obligor's disposable income."

5 Section 35. G.S. 110-136.8(d) reads as rewritten:

6 "(d) The payor may combine amounts withheld from obligors' disposable incomes  
7 in a single payment to ~~each clerk of superior court~~ the State Child Support  
8 Collection and Disbursement Unit if the payor separately identifies by name and case  
9 number the portion of the single payment attributable to each individual obligor and  
10 the date that each payment was withheld from the obligor's disposable income."

11 Section 36. G.S. 110-136.9 reads as rewritten:

12 "§ 110-136.9. Payment of withheld funds.

13 ~~In IV-D all cases, when required by federal or State law or regulations or by court~~  
14 ~~order, the clerk of superior court shall transmit payments received from payors to the~~  
15 ~~Department of Health and Human Services for appropriate distribution. In all other~~  
16 ~~cases, unless a court order requires otherwise, the clerk of superior court shall~~  
17 ~~transmit the payments to the custodial parent.~~ the State Child Support Collection and  
18 Disbursement Unit shall distribute payments received from payors to the appropriate  
19 recipient."

20 Section 37. G.S. 110-139(f) reads as rewritten:

21 "(f) There is established the State Child Support Collection and Disbursement  
22 Unit. The duties of the Unit shall be the collection and disbursement of payments  
23 under support orders ~~for:~~

24 (1) ~~All IV-D cases, and~~

25 (2) ~~All non-IV-D cases in which the support order was initially issued~~  
26 ~~in this State on or after January 1, 1994, and in which the income~~  
27 ~~of the nonecustodial parent is subject to income withholding.~~

28 for all cases. The Department may administer and operate the Unit or may contract  
29 with another State or private entity for the administration and operation of the Unit."

30 Section 38. G.S. 15A-1344.1 reads as rewritten:

31 "§ 15A-1344.1. Procedure to insure payment of child support.

32 (a) When the court requires, as a condition of supervised or unsupervised  
33 probation, that a defendant support his children, the court may order at any time that  
34 support payments be made to the ~~clerk of court~~ State Child Support Collection and  
35 Disbursement Unit for remittance to the party entitled to receive the payments. For  
36 child support orders initially entered on or after January 1, 1994, the immediate  
37 income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply.

38 (b) After entry of such an order by the court, the clerk of court shall maintain  
39 records listing the amount of payments, the date payments are required to be made,  
40 and the names and addresses of the parties affected by the order.

41 (c) The parties affected by the order shall inform the clerk of court and the State  
42 Child Support Collection and Disbursement Unit of any change of address or of  
43 other condition that may affect the administration of the order. The court may  
44 provide in the order that a defendant failing to inform the court and the State Child

1 Support Collection and Disbursement Unit of a change of address within reasonable  
2 period of time may be held in violation of probation.  
3 (d) When a defendant in a non-IV-D case, as defined in G.S. 110-129, fails to  
4 make required payments of child support and is in arrears, upon notification by the  
5 State Child Support Collection and Disbursement Unit the clerk of superior court  
6 may mail by regular mail to the last known address of the defendant a notice of  
7 delinquency ~~which shall set~~ that sets out the amount of child support currently due  
8 and ~~which shall demand~~ that demands immediate payment of ~~said~~ the amount.  
9 Failure to receive the delinquency notice ~~shall~~ is not be a defense in any probation  
10 violation hearing or other proceeding thereafter. If the arrearage is not paid in full  
11 within 21 days after the mailing of the delinquency notice, or is not paid within 30  
12 days after the defendant becomes delinquent if the clerk has elected not to send a  
13 delinquency notice, the clerk shall certify the amount due to the district attorney and  
14 probation officer, who shall initiate proceedings for revocation of probation pursuant  
15 to Article 82 of Chapter 15A or make a motion in the criminal case for income  
16 withholding pursuant to G.S. 110-136.5 or both.  
17 When a defendant in a IV-D case, as defined in G.S. 110-129, fails to make  
18 required payments of child support and is in arrears, at the request of the IV-D  
19 obligee the clerk shall certify the amount due to the district attorney and probation  
20 officer, who shall initiate proceedings for revocation of probation pursuant to Article  
21 82 of Chapter 15A or make a motion in the criminal case for income withholding  
22 pursuant to G.S. 110-136.5 or both."  
23

### 24 PART III. EFFECTIVE DATES.

25 Section 39. This act becomes effective October 1, 1999. The mandatory  
26 sanctions under G.S. 110-142.2(b), as amended by this act, apply when an obligor is  
27 adjudicated to be in civil or criminal contempt for a third or subsequent time after  
28 this act becomes effective.

29 Part I of this act becomes effective only if the 1999 General Assembly  
30 (1999 Regular Session) does not appropriate to the Department of Health and Human  
31 Services the sum of two million four hundred ninety-six thousand five hundred and  
32 ninety-one dollars (\$2,496,591) for fiscal year 1999-2000 and the sum of three million  
33 three hundred twenty-eight thousand seven hundred and ninety-one dollars  
34 (\$3,328,791) for fiscal year 2000-2001 for the administrative cost of receiving and  
35 disbursing child support payments in non-IV-D cases established prior to January 1,  
36 1994. If the General Assembly does not appropriate the funds to the Department of  
37 Health and Human Services, Part I becomes effective. Part II of this act becomes  
38 effective only if the 1999 General Assembly (1999 Regular Session) appropriates to  
39 the Department of Health and Human Services the sum of two million four hundred  
40 ninety-six thousand five hundred and ninety-one dollars (\$2,496,591) for fiscal year  
41 1999-2000 and the sum of three million three hundred twenty-eight thousand seven  
42 hundred and ninety-one dollars (\$3,328,791) for fiscal year 2000-2001 for the  
43 administrative cost of receiving and disbursing child support payments in non-IV-D  
44 cases established prior to January 1, 1994. If the General Assembly appropriates the

- 1 funds to the Department of Health and Human Services, Part II becomes effective.
- 2 This act does not obligate the General Assembly to appropriate funds.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 302

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)

H302-ASE-020

Page 1 of \_\_\_\_

Date \_\_\_\_\_, 1999

Comm. Sub. [YES]  
Amends Title []  
Fourth Edition

Senator Lucas

1 moves to amend the bill on page 21, line 29 through page 22, line 2,  
2 by rewriting those lines to read:

3  
4 "Part I of this act becomes effective only if funds are not  
5 appropriated to the Department of Health and Human Services for  
6 fiscal years 1999-2000 and 2000-2001 to cover the cost of processing  
7 all non-IV-D child support transactions. Part II of this act becomes  
8 effective only if funds are appropriated to the Department of Health  
9 and Human Services for fiscal years 1999-2000 and 2000-2001 to cover  
10 the cost of processing all non-IV-D child support transactions."  
11  
12

SIGNED Jeanne Lucas  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1159  
Committee Substitute Favorable 4/28/99

Short Title: Protection From Violent Caregivers.

(Public)

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Sponsors:

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Referred to:

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April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE ABILITY OF THE DIVISION OF SOCIAL  
3 SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO  
4 PROTECT CHILDREN AND YOUTH FROM VIOLENCE-PRONE  
5 CAREGIVERS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7B-101, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 18 of S.L. 1998-229, is amended by adding a new subdivision to  
9 read:

10 "(7a) 'Criminal history' means a county, State, and federal criminal  
11 history of conviction or pending indictment of a crime, whether a  
12 misdemeanor or a felony, involving violence against a person."

13 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
14 amended by Section 19 of S.L. 1998-229, is amended by adding a new subsection to  
15 read:

16 "(d1) Whenever a juvenile is removed from the home due to physical abuse, the  
17 director shall conduct a thorough review of the background of the alleged abuser.  
18 This review shall include a criminal history check and a review of any available  
19 mental health records. If the review reveals that the alleged abuser has a history of  
20 violent behavior against people, the director shall petition the court to order the  
21 alleged abuser to submit to a complete mental health evaluation by a licensed  
22 psychologist or psychiatrist."

1           Section 3. G.S. 7B-304, as enacted by Section 6 of S.L. 1998-202, reads  
2 as rewritten:

3 "§ 7B-304. Evaluation for court.

4     In all cases in which a petition is filed, the director of the department of social  
5 services shall prepare a report for the court containing the results of any mental  
6 health evaluation under G.S. 7B-503, a home placement ~~plan~~ plan, and a treatment  
7 plan deemed by the director to be appropriate to the needs of the juvenile. The  
8 report shall be available to the court immediately following the adjudicatory  
9 hearing."

10          Section 4. G.S. 7B-503, as enacted by Section 6 of S.L. 1998-202, reads  
11 as rewritten:

12 "§ 7B-503. Criteria for nonsecure custody.

13     (a) When a request is made for nonsecure custody, the court shall first consider  
14 release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other  
15 responsible adult. An order for nonsecure custody shall be made only when there is  
16 a reasonable factual basis to believe the matters alleged in the petition are true, and

17           (1) The juvenile has been abandoned; or

18           (2) The juvenile has suffered physical injury or sexual abuse; or

19           (3) The juvenile is exposed to a substantial risk of physical injury or  
20 sexual abuse because the parent, guardian, custodian, or caretaker  
21 has created the conditions likely to cause injury or abuse or has  
22 failed to provide, or is unable to provide, adequate supervision or  
23 protection; or

24           (4) The juvenile is in need of medical treatment to cure, alleviate, or  
25 prevent suffering serious physical harm which may result in death,  
26 disfigurement, or substantial impairment of bodily functions, and  
27 the juvenile's parent, guardian, custodian, or caretaker is unwilling  
28 or unable to provide or consent to the medical treatment; or

29           (5) The parent, guardian, custodian, or caretaker consents to the  
30 nonsecure custody order; or

31           (6) The juvenile is a runaway and consents to nonsecure custody.

32 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure  
33 custody only when there is a reasonable factual basis to believe that there are no  
34 other reasonable means available to protect the juvenile. In no case shall a juvenile  
35 alleged to be abused, neglected, or dependent be placed in secure custody.

36     (b) Whenever the court orders a juvenile to be placed in nonsecure custody, the  
37 court shall also rule on any petition under G.S. 7B-302(d1). If the court finds that  
38 the alleged abuser has a history of violent behavior against people, the court shall  
39 order the alleged abuser to submit to a complete mental health evaluation by a  
40 licensed psychologist or psychiatrist. The court may order the alleged abuser to pay  
41 the cost of any mental health evaluation required under this section."

42          Section 5. G.S. 7B-506, as enacted by Section 6 of S.L. 1998-202 and as  
43 amended by Section 21 of S.L. 1998-229, is amended by adding a new subsection to  
44 read:

1     "(c1) In determining whether continued custody is warranted, the court shall give  
2     considerable weight to the opinion of the mental health professional who performed  
3     an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of  
4     that individual."

5             Section 6. G.S. 7B-903, as enacted by Section 6 of S.L. 1998-202 and as  
6     amended by Section 23 of S.L. 1998-229, reads as rewritten:

7     "§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.

8     (a) The following alternatives for disposition shall be available to any court  
9     exercising jurisdiction, and the court may combine any of the applicable alternatives  
10    when the court finds the disposition to be in the best interests of the juvenile:

11            (1) The court may dismiss the case or continue the case in order to  
12            allow the parent, guardian, custodian, caretaker or others to take  
13            appropriate action.

14            (2) In the case of any juvenile who needs more adequate care or  
15            supervision or who needs placement, the court may:

16            a. Require that the juvenile be supervised in the juvenile's own  
17            home by the department of social services in the juvenile's  
18            county, or by other personnel as may be available to the  
19            court, subject to conditions applicable to the parent,  
20            guardian, custodian, or caretaker as the court may specify;  
21            or

22            b. Place the juvenile in the custody of a parent, relative,  
23            private agency offering placement services, or some other  
24            suitable person; or

25            c. Place the juvenile in the custody of the department of social  
26            services in the county of the juvenile's residence, or in the  
27            case of a juvenile who has legal residence outside the State,  
28            in the physical custody of the department of social services  
29            in the county where the juvenile is found so that agency  
30            may return the juvenile to the responsible authorities in the  
31            juvenile's home state. The director may, unless otherwise  
32            ordered by the court, arrange for, provide, or consent to,  
33            needed routine or emergency medical or surgical care or  
34            treatment. In the case where the parent is unknown,  
35            unavailable, or unable to act on behalf of the juvenile, the  
36            director may, unless otherwise ordered by the court, arrange  
37            for, provide, or consent to any psychiatric, psychological,  
38            educational, or other remedial evaluations or treatment for  
39            the juvenile placed by a court or the court's designee in the  
40            custody or physical custody of a county department of social  
41            services under the authority of this or any other Chapter of  
42            the General Statutes. Prior to exercising this authority, the  
43            director shall make reasonable efforts to obtain consent from  
44            a parent or guardian of the affected juvenile. If the director

cannot obtain such consent, the director shall promptly notify the parent or guardian that care or treatment has been provided and shall give the parent frequent status reports on the circumstances of the juvenile. Upon request of a parent or guardian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to such parent or guardian by the director unless prohibited by G.S. 122C-53(d). If a juvenile is removed from the home and placed in custody or placement responsibility of a county department of social services, the director shall not allow unsupervised visitation with, or return physical custody of the juvenile to, the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home.

In placing a juvenile in out-of-home care under this section, 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 unless the court finds that the placement is contrary to the best interests of the juvenile. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children.

(3) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile:

a. Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other treatment and who should pay the cost of the treatment. The county manager, or such person who shall be designated by the chairman of the county commissioners, of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other treatment, the court shall permit the parent or other responsible persons to arrange for treatment. If the parent declines or is unable to make necessary arrangements, the court may order the needed treatment, surgery, or care, and the court may order the parent to pay the cost of the care

1 pursuant to G.S. 7B-904. If the court finds the parent is  
2 unable to pay the cost of treatment, the court shall order the  
3 county to arrange for treatment of the juvenile and to pay  
4 for the cost of the treatment. The county department of  
5 social services shall recommend the facility that will provide  
6 the juvenile with treatment.

7 b. If the court believes, or if there is evidence presented to the  
8 effect that the juvenile is mentally ill or is developmentally  
9 disabled, the court shall refer the juvenile to the area mental  
10 health, developmental disabilities, and substance abuse  
11 services director for appropriate action. A juvenile shall not  
12 be committed directly to a State hospital or mental  
13 retardation center; and orders purporting to commit a  
14 juvenile directly to a State hospital or mental retardation  
15 center except for an examination to determine capacity to  
16 proceed shall be void and of no effect. The area mental  
17 health, developmental disabilities, and substance abuse  
18 director shall be responsible for arranging an  
19 interdisciplinary evaluation of the juvenile and mobilizing  
20 resources to meet the juvenile's needs. If institutionalization  
21 is determined to be the best service for the juvenile,  
22 admission shall be with the voluntary consent of the parent  
23 or guardian. If the parent, guardian, custodian, or caretaker  
24 refuses to consent to a mental hospital or retardation center  
25 admission after such institutionalization is recommended by  
26 the area mental health, developmental disabilities, and  
27 substance abuse director, the signature and consent of the  
28 court may be substituted for that purpose. In all cases in  
29 which a regional mental hospital refuses admission to a  
30 juvenile referred for admission by a court and an area  
31 mental health, developmental disabilities, and substance  
32 abuse director or discharges a juvenile previously admitted  
33 on court referral prior to completion of treatment, the  
34 hospital shall submit to the court a written report setting out  
35 the reasons for denial of admission or discharge and setting  
36 out the juvenile's diagnosis, indications of mental illness,  
37 indications of need for treatment, and a statement as to the  
38 location of any facility known to have a treatment program  
39 for the juvenile in question.

40 (b) When the court has found that a juvenile has suffered physical abuse and that  
41 the individual responsible for the abuse has a history of violent behavior against  
42 people, the court shall give considerable weight to the opinion of the mental health  
43 professional who performed an evaluation under G.S. 7B-503(b) before returning the  
44 juvenile to the custody of that individual."

1 Section 7. G.S. 7B-904, as enacted by Section 6 of S.L. 1998-202, reads  
2 as rewritten:

3 "§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or  
4 dependent.

5 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
6 treatment pursuant to G.S. 7B-903, the court may order the parent or other  
7 responsible parties to pay the cost of the treatment or care ordered.

8 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
9 who has been adjudicated abused, neglected, or dependent, if the court finds that it is  
10 in the best interests of the juvenile for the ~~parent~~ parent, guardian, custodian, or  
11 caretaker to be directly involved in the juvenile's treatment, the court may order the  
12 ~~parent~~ parent, guardian, custodian, or caretaker to participate in medical, psychiatric,  
13 psychological, or other treatment of the juvenile. The cost of the treatment shall be  
14 paid pursuant to G.S. 7B-903.

15 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
16 who has been adjudicated abused, neglected, or dependent, the court may determine  
17 whether the best interests of the juvenile require that the ~~parent~~ parent, guardian,  
18 custodian, or caretaker undergo psychiatric, psychological, or other treatment or  
19 counseling directed toward remediating or remedying behaviors or conditions that led  
20 to or contributed to the juvenile's adjudication or to the court's decision to remove  
21 custody of the juvenile from the ~~parent~~ parent, guardian, custodian, or caretaker. If  
22 the court finds that the best interests of the juvenile require the ~~parent~~ parent,  
23 guardian, custodian, or caretaker undergo treatment, it may order ~~the parent that~~  
24 individual to comply with a plan of treatment approved by the court or condition  
25 legal custody or physical placement of the juvenile with the ~~parent~~ parent, guardian,  
26 custodian, or caretaker upon ~~the parent's~~ that individual's compliance with the plan  
27 of treatment. The court may order the ~~parent~~ parent, guardian, custodian, or  
28 caretaker to pay the cost of treatment ordered pursuant to this subsection. In cases in  
29 which the court has conditioned legal custody or physical placement of the juvenile  
30 with the ~~parent~~ parent, guardian, custodian, or caretaker upon ~~the parent's~~  
31 compliance with a plan of treatment, the court may charge the cost of the treatment  
32 to the county of the juvenile's residence if the court finds the ~~parent~~ parent, guardian,  
33 custodian, or caretaker is unable to pay the cost of the treatment. In all other cases,  
34 if the court finds the ~~parent~~ parent, guardian, custodian, or caretaker is unable to pay  
35 the cost of the treatment ordered pursuant to this subsection, the court may order ~~the~~  
36 ~~parent~~ that individual to receive treatment currently available from the area mental  
37 health program that serves the parent's catchment area.

38 (d) Whenever legal custody of a juvenile is vested in someone other than the  
39 juvenile's parent, after due notice to the parent and after a hearing, the court may  
40 order that the parent pay a reasonable sum that will cover, in whole or in part, the  
41 support of the juvenile after the order is entered. If the court requires the payment of  
42 child support, the amount of the payments shall be determined as provided in G.S.  
43 50-13.4(c). If the court places a juvenile in the custody of a county department of  
44 social services and if the court finds that the parent is unable to pay the cost of the

1 support required by the juvenile, the cost shall be paid by the county department of  
2 social services in whose custody the juvenile is placed, provided the juvenile is not  
3 receiving care in an institution owned or operated by the State or federal government  
4 or any subdivision thereof.

5 (e) Failure of a parent who is personally served to participate in or comply with  
6 this section may result in a proceeding for civil contempt."

7 Section 8. G.S. 7B-1003, as enacted by Section 6 of S.L. 1998-202, reads  
8 as rewritten:

9 "§ 7B-1003. Disposition pending appeal.

10 Pending disposition of an appeal, the return of the juvenile to the custody of the  
11 parent or guardian of the juvenile, with or without conditions, should issue in every  
12 case unless the court orders otherwise. When the court has found that a juvenile has  
13 suffered physical abuse and that the individual responsible for the abuse has a history  
14 of violent behavior, the court shall give considerable weight to the opinion of the  
15 mental health professional who performed the evaluation under G.S. 7B-503(b)  
16 before returning the juvenile to the custody of that individual. For compelling  
17 reasons which must be stated in writing, the court may enter a temporary order  
18 affecting the custody or placement of the juvenile as the court finds to be in the best  
19 interests of the juvenile or the State. The provisions of subsections (b), (c), and (d)  
20 of G.S. 7B-905 shall apply to any order entered under this section which provides for  
21 the placement or continued placement of a juvenile in foster care."

22 Section 9. This act becomes effective July 1, 1999, and applies to  
23 petitions filed on or after that date.

**Senate Committee on Children & Human resources**  
**Minutes of Wednesday, June 30, 1999**

The Senate Committee on Children & Human Resources met on Wednesday, June 30, 1999, in the Senate Chamber, (at Senator Lucas' seat).

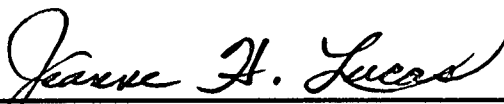
Eleven (11) members of the Committee were present.

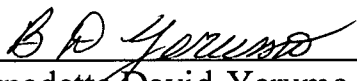
House Bill 1159, entitled Protection From Violent Caregivers sponsored by Senator Nesbitt, was considered. The members presented and voted on a Senate Committee Substitute Bill. The Committee voted Unfavorable As To Committee Substitute Bill No. 1, But Favorable As To Senate Committee Substitute Bill.

There was no next scheduled meeting.

With the business completed, Senator Lucas adjourned the meeting.

Respectfully submitted,

  
\_\_\_\_\_  
Senator Jeanne H. Lucas, Chair

  
\_\_\_\_\_  
Bernadette David-Yerumo, Legislative Assistant

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

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

Wednesday, June 30, 1999

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

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,  
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)1159	Protection From Violent Caregivers.
	Draft Number: PCSA157
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1159  
Committee Substitute Favorable 4/28/99

Short Title: Protection From Violent Caregivers.

(Public)

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Sponsors:

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Referred to:

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April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE ABILITY OF THE DIVISION OF SOCIAL  
3 SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO  
4 PROTECT CHILDREN AND YOUTH FROM VIOLENCE-PRONE  
5 CAREGIVERS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 7B-101, as enacted by Section 6 of S.L. 1998-202 and as  
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9 read:

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11 history of conviction or pending indictment of a crime, whether a  
12 misdemeanor or a felony, involving violence against a person."

13 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
14 amended by Section 19 of S.L. 1998-229, is amended by adding a new subsection to  
15 read:

16 "(d1) Whenever a juvenile is removed from the home due to physical abuse, the  
17 director shall conduct a thorough review of the background of the alleged abuser.  
18 This review shall include a criminal history check and a review of any available  
19 mental health records. If the review reveals that the alleged abuser has a history of  
20 violent behavior against people, the director shall petition the court to order the  
21 alleged abuser to submit to a complete mental health evaluation by a licensed  
22 psychologist or psychiatrist."

1 Section 3. G.S. 7B-304, as enacted by Section 6 of S.L. 1998-202, reads  
2 as rewritten:

3 "§ 7B-304. Evaluation for court.

4 In all cases in which a petition is filed, the director of the department of social  
5 services shall prepare a report for the court containing the results of any mental  
6 health evaluation under G.S. 7B-503, a home placement ~~plan~~ plan, and a treatment  
7 plan deemed by the director to be appropriate to the needs of the juvenile. The  
8 report shall be available to the court immediately following the adjudicatory  
9 hearing."

10 Section 4. G.S. 7B-503, as enacted by Section 6 of S.L. 1998-202, reads  
11 as rewritten:

12 "§ 7B-503. Criteria for nonsecure custody.

13 (a) When a request is made for nonsecure custody, the court shall first consider  
14 release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other  
15 responsible adult. An order for nonsecure custody shall be made only when there is  
16 a reasonable factual basis to believe the matters alleged in the petition are true, and

- 17 (1) The juvenile has been abandoned; or
- 18 (2) The juvenile has suffered physical injury or sexual abuse; or
- 19 (3) The juvenile is exposed to a substantial risk of physical injury or  
20 sexual abuse because the parent, guardian, custodian, or caretaker  
21 has created the conditions likely to cause injury or abuse or has  
22 failed to provide, or is unable to provide, adequate supervision or  
23 protection; or
- 24 (4) The juvenile is in need of medical treatment to cure, alleviate, or  
25 prevent suffering serious physical harm which may result in death,  
26 disfigurement, or substantial impairment of bodily functions, and  
27 the juvenile's parent, guardian, custodian, or caretaker is unwilling  
28 or unable to provide or consent to the medical treatment; or
- 29 (5) The parent, guardian, custodian, or caretaker consents to the  
30 nonsecure custody order; or
- 31 (6) The juvenile is a runaway and consents to nonsecure custody.

32 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure  
33 custody only when there is a reasonable factual basis to believe that there are no  
34 other reasonable means available to protect the juvenile. In no case shall a juvenile  
35 alleged to be abused, neglected, or dependent be placed in secure custody.

36 (b) Whenever the court orders a juvenile to be placed in nonsecure custody, the  
37 court shall also rule on any petition under G.S. 7B-302(d1). If the court finds that  
38 the alleged abuser has a history of violent behavior against people, the court shall  
39 order the alleged abuser to submit to a complete mental health evaluation by a  
40 licensed psychologist or psychiatrist. The court may order the alleged abuser to pay  
41 the cost of any mental health evaluation required under this section."

42 Section 5. G.S. 7B-506, as enacted by Section 6 of S.L. 1998-202 and as  
43 amended by Section 21 of S.L. 1998-229, is amended by adding a new subsection to  
44 read:

1 "(c1) In determining whether continued custody is warranted, the court shall give  
2 considerable weight to the opinion of the mental health professional who performed  
3 an evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of  
4 that individual."

5 Section 6. G.S. 7B-903, as enacted by Section 6 of S.L. 1998-202 and as  
6 amended by Section 23 of S.L. 1998-229, reads as rewritten:

7 "§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.

8 (a) The following alternatives for disposition shall be available to any court  
9 exercising jurisdiction, and the court may combine any of the applicable alternatives  
10 when the court finds the disposition to be in the best interests of the juvenile:

11 (1) The court may dismiss the case or continue the case in order to  
12 allow the parent, guardian, custodian, caretaker or others to take  
13 appropriate action.

14 (2) In the case of any juvenile who needs more adequate care or  
15 supervision or who needs placement, the court may:

16 a. Require that the juvenile be supervised in the juvenile's own  
17 home by the department of social services in the juvenile's  
18 county, or by other personnel as may be available to the  
19 court, subject to conditions applicable to the parent,  
20 guardian, custodian, or caretaker as the court may specify;  
21 or

22 b. Place the juvenile in the custody of a parent, relative,  
23 private agency offering placement services, or some other  
24 suitable person; or

25 c. Place the juvenile in the custody of the department of social  
26 services in the county of the juvenile's residence, or in the  
27 case of a juvenile who has legal residence outside the State,  
28 in the physical custody of the department of social services  
29 in the county where the juvenile is found so that agency  
30 may return the juvenile to the responsible authorities in the  
31 juvenile's home state. The director may, unless otherwise  
32 ordered by the court, arrange for, provide, or consent to,  
33 needed routine or emergency medical or surgical care or  
34 treatment. In the case where the parent is unknown,  
35 unavailable, or unable to act on behalf of the juvenile, the  
36 director may, unless otherwise ordered by the court, arrange  
37 for, provide, or consent to any psychiatric, psychological,  
38 educational, or other remedial evaluations or treatment for  
39 the juvenile placed by a court or the court's designee in the  
40 custody or physical custody of a county department of social  
41 services under the authority of this or any other Chapter of  
42 the General Statutes. Prior to exercising this authority, the  
43 director shall make reasonable efforts to obtain consent from  
44 a parent or guardian of the affected juvenile. If the director

1 cannot obtain such consent, the director shall promptly  
2 notify the parent or guardian that care or treatment has  
3 been provided and shall give the parent frequent status  
4 reports on the circumstances of the juvenile. Upon request  
5 of a parent or guardian of the affected juvenile, the results  
6 or records of the aforementioned evaluations, findings, or  
7 treatment shall be made available to such parent or guardian  
8 by the director unless prohibited by G.S. 122C-53(d). If a  
9 juvenile is removed from the home and placed in custody or  
10 placement responsibility of a county department of social  
11 services, the director shall not allow unsupervised visitation  
12 with, or return physical custody of the juvenile to, the  
13 parent, guardian, custodian, or caretaker without a hearing  
14 at which the court finds that the juvenile will receive proper  
15 care and supervision in a safe home.

16 In placing a juvenile in out-of-home care under this  
17 section, the court shall first consider whether a relative of  
18 the juvenile is willing and able to provide proper care and  
19 supervision of the juvenile in a safe home. If the court finds  
20 that the relative is willing and able to provide proper care  
21 and supervision in a safe home, then the court shall order  
22 placement of the juvenile with the relative unless the court  
23 finds that the placement is contrary to the best interests of  
24 the juvenile. Placement of a juvenile with a relative outside  
25 of this State must be in accordance with the Interstate  
26 Compact on the Placement of Children.

27 (3) In any case, the court may order that the juvenile be examined by  
28 a physician, psychiatrist, psychologist, or other qualified expert as  
29 may be needed for the court to determine the needs of the  
30 juvenile:

31 a. Upon completion of the examination, the court shall  
32 conduct a hearing to determine whether the juvenile is in  
33 need of medical, surgical, psychiatric, psychological, or other  
34 treatment and who should pay the cost of the treatment. The  
35 county manager, or such person who shall be designated by  
36 the chairman of the county commissioners, of the juvenile's  
37 residence shall be notified of the hearing, and allowed to be  
38 heard. If the court finds the juvenile to be in need of  
39 medical, surgical, psychiatric, psychological, or other  
40 treatment, the court shall permit the parent or other  
41 responsible persons to arrange for treatment. If the parent  
42 declines or is unable to make necessary arrangements, the  
43 court may order the needed treatment, surgery, or care, and  
44 the court may order the parent to pay the cost of the care

1 pursuant to G.S. 7B-904. If the court finds the parent is  
2 unable to pay the cost of treatment, the court shall order the  
3 county to arrange for treatment of the juvenile and to pay  
4 for the cost of the treatment. The county department of  
5 social services shall recommend the facility that will provide  
6 the juvenile with treatment.

- 7 b. If the court believes, or if there is evidence presented to the  
8 effect that the juvenile is mentally ill or is developmentally  
9 disabled, the court shall refer the juvenile to the area mental  
10 health, developmental disabilities, and substance abuse  
11 services director for appropriate action. A juvenile shall not  
12 be committed directly to a State hospital or mental  
13 retardation center; and orders purporting to commit a  
14 juvenile directly to a State hospital or mental retardation  
15 center except for an examination to determine capacity to  
16 proceed shall be void and of no effect. The area mental  
17 health, developmental disabilities, and substance abuse  
18 director shall be responsible for arranging an  
19 interdisciplinary evaluation of the juvenile and mobilizing  
20 resources to meet the juvenile's needs. If institutionalization  
21 is determined to be the best service for the juvenile,  
22 admission shall be with the voluntary consent of the parent  
23 or guardian. If the parent, guardian, custodian, or caretaker  
24 refuses to consent to a mental hospital or retardation center  
25 admission after such institutionalization is recommended by  
26 the area mental health, developmental disabilities, and  
27 substance abuse director, the signature and consent of the  
28 court may be substituted for that purpose. In all cases in  
29 which a regional mental hospital refuses admission to a  
30 juvenile referred for admission by a court and an area  
31 mental health, developmental disabilities, and substance  
32 abuse director or discharges a juvenile previously admitted  
33 on court referral prior to completion of treatment, the  
34 hospital shall submit to the court a written report setting out  
35 the reasons for denial of admission or discharge and setting  
36 out the juvenile's diagnosis, indications of mental illness,  
37 indications of need for treatment, and a statement as to the  
38 location of any facility known to have a treatment program  
39 for the juvenile in question.

40 (b) When the court has found that a juvenile has suffered physical abuse and that  
41 the individual responsible for the abuse has a history of violent behavior against  
42 people, the court shall give considerable weight to the opinion of the mental health  
43 professional who performed an evaluation under G.S. 7B-503(b) before returning the  
44 juvenile to the custody of that individual."

1 Section 7. G.S. 7B-904, as enacted by Section 6 of S.L. 1998-202, reads  
2 as rewritten:

3 "§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or  
4 dependent.

5 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
6 treatment pursuant to G.S. 7B-903, the court may order the parent or other  
7 responsible parties to pay the cost of the treatment or care ordered.

8 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
9 who has been adjudicated abused, neglected, or dependent, if the court finds that it is  
10 in the best interests of the juvenile for the ~~parent~~ parent, guardian, custodian, or  
11 caretaker to be directly involved in the juvenile's treatment, the court may order the  
12 ~~parent~~ parent, guardian, custodian, or caretaker to participate in medical, psychiatric,  
13 psychological, or other treatment of the juvenile. The cost of the treatment shall be  
14 paid pursuant to G.S. 7B-903.

15 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
16 who has been adjudicated abused, neglected, or dependent, the court may determine  
17 whether the best interests of the juvenile require that the ~~parent~~ parent, guardian,  
18 custodian, or caretaker undergo psychiatric, psychological, or other treatment or  
19 counseling directed toward remediating or remedying behaviors or conditions that led  
20 to or contributed to the juvenile's adjudication or to the court's decision to remove  
21 custody of the juvenile from the ~~parent~~ parent, guardian, custodian, or caretaker. If  
22 the court finds that the best interests of the juvenile require the ~~parent~~ parent,  
23 guardian, custodian, or caretaker undergo treatment, it may order ~~the parent that~~  
24 individual to comply with a plan of treatment approved by the court or condition  
25 legal custody or physical placement of the juvenile with the ~~parent~~ parent, guardian,  
26 custodian, or caretaker upon ~~the parent's~~ that individual's compliance with the plan  
27 of treatment. The court may order the ~~parent~~ parent, guardian, custodian, or  
28 caretaker to pay the cost of treatment ordered pursuant to this subsection. In cases in  
29 which the court has conditioned legal custody or physical placement of the juvenile  
30 with the ~~parent~~ parent, guardian, custodian, or caretaker upon ~~the parent's~~  
31 compliance with a plan of treatment, the court may charge the cost of the treatment  
32 to the county of the juvenile's residence if the court finds the ~~parent~~ parent, guardian,  
33 custodian, or caretaker is unable to pay the cost of the treatment. In all other cases,  
34 if the court finds the ~~parent~~ parent, guardian, custodian, or caretaker is unable to pay  
35 the cost of the treatment ordered pursuant to this subsection, the court may order ~~the~~  
36 parent that individual to receive treatment currently available from the area mental  
37 health program that serves the parent's catchment area.

38 (d) Whenever legal custody of a juvenile is vested in someone other than the  
39 juvenile's parent, after due notice to the parent and after a hearing, the court may  
40 order that the parent pay a reasonable sum that will cover, in whole or in part, the  
41 support of the juvenile after the order is entered. If the court requires the payment of  
42 child support, the amount of the payments shall be determined as provided in G.S.  
43 50-13.4(c). If the court places a juvenile in the custody of a county department of  
44 social services and if the court finds that the parent is unable to pay the cost of the

1 support required by the juvenile, the cost shall be paid by the county department of  
2 social services in whose custody the juvenile is placed, provided the juvenile is not  
3 receiving care in an institution owned or operated by the State or federal government  
4 or any subdivision thereof.

5 (e) Failure of a parent who is personally served to participate in or comply with  
6 this section may result in a proceeding for civil contempt."

7 Section 8. G.S. 7B-1003, as enacted by Section 6 of S.L. 1998-202, reads  
8 as rewritten:

9 "§ 7B-1003. Disposition pending appeal.

10 Pending disposition of an appeal, the return of the juvenile to the custody of the  
11 parent or guardian of the juvenile, with or without conditions, should issue in every  
12 case unless the court orders otherwise. When the court has found that a juvenile has  
13 suffered physical abuse and that the individual responsible for the abuse has a history  
14 of violent behavior, the court shall give considerable weight to the opinion of the  
15 mental health professional who performed the evaluation under G.S. 7B-503(b)  
16 before returning the juvenile to the custody of that individual. For compelling  
17 reasons which must be stated in writing, the court may enter a temporary order  
18 affecting the custody or placement of the juvenile as the court finds to be in the best  
19 interests of the juvenile or the State. The provisions of subsections (b), (c), and (d)  
20 of G.S. 7B-905 shall apply to any order entered under this section which provides for  
21 the placement or continued placement of a juvenile in foster care."

22 Section 9. This act becomes effective July 1, 1999, and applies to  
23 petitions filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

H

D

HOUSE BILL 1159  
Committee Substitute Favorable 4/28/99  
Proposed Committee Substitute H1159-PCSA157-SE

Short Title: Protection From Violent Caregivers.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE ABILITY OF THE DIVISION OF SOCIAL  
3 SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO  
4 PROTECT CHILDREN AND YOUTH FROM VIOLENCE-PRONE  
5 CAREGIVERS.  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 7B-101, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 18 of S.L. 1998-229, is amended by adding a new subdivision to  
9 read:  
10 "(7a) 'Criminal history' means a county, State, and federal criminal  
11 history of conviction or pending indictment of a crime, whether a  
12 misdemeanor or a felony, involving violence against a person."  
13 Section 2. G.S. 7B-302, as enacted by Section 6 of S.L. 1998-202 and as  
14 amended by Section 19 of S.L. 1998-229, is amended by adding a new subsection to  
15 read:  
16 "(d1) Whenever a juvenile is removed from the home of a parent, guardian,  
17 custodian, stepparent, or adult relative entrusted with the juvenile's care due to  
18 physical abuse, the director shall conduct a thorough review of the background of the  
19 alleged abuser or abusers. This review shall include a criminal history check and a  
20 review of any available mental health records. If the review reveals that the alleged  
21 abuser or abusers have a history of violent behavior against people, the director shall

1 petition the court to order the alleged abuser or abusers to submit to a complete  
2 mental health evaluation by a licensed psychologist or psychiatrist."

3 Section 3. G.S. 7B-304, as enacted by Section 6 of S.L. 1998-202, reads  
4 as rewritten:

5 **"§ 7B-304. Evaluation for court.**

6 In all cases in which a petition is filed, the director of the department of social  
7 services shall prepare a report for the court containing the results of any mental  
8 health evaluation under G.S. 7B-503, a home placement ~~plan~~ plan, and a treatment  
9 plan deemed by the director to be appropriate to the needs of the juvenile. The  
10 report shall be available to the court immediately following the adjudicatory  
11 hearing."

12 Section 4. G.S. 7B-503, as enacted by Section 6 of S.L. 1998-202, reads  
13 as rewritten:

14 **"§ 7B-503. Criteria for nonsecure custody.**

15 (a) When a request is made for nonsecure custody, the court shall first consider  
16 release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other  
17 responsible adult. An order for nonsecure custody shall be made only when there is  
18 a reasonable factual basis to believe the matters alleged in the petition are true, and

- 19 (1) The juvenile has been abandoned; or
- 20 (2) The juvenile has suffered physical injury or sexual abuse; or
- 21 (3) The juvenile is exposed to a substantial risk of physical injury or  
22 sexual abuse because the parent, guardian, custodian, or caretaker  
23 has created the conditions likely to cause injury or abuse or has  
24 failed to provide, or is unable to provide, adequate supervision or  
25 protection; or
- 26 (4) The juvenile is in need of medical treatment to cure, alleviate, or  
27 prevent suffering serious physical harm which may result in death,  
28 disfigurement, or substantial impairment of bodily functions, and  
29 the juvenile's parent, guardian, custodian, or caretaker is unwilling  
30 or unable to provide or consent to the medical treatment; or
- 31 (5) The parent, guardian, custodian, or caretaker consents to the  
32 nonsecure custody order; or
- 33 (6) The juvenile is a runaway and consents to nonsecure custody.

34 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure  
35 custody only when there is a reasonable factual basis to believe that there are no  
36 other reasonable means available to protect the juvenile. In no case shall a juvenile  
37 alleged to be abused, neglected, or dependent be placed in secure custody.

38 (b) Whenever a petition is filed under G.S. 7B-302(d1), the court shall rule on the  
39 petition prior to returning the child to a home where the alleged abuser or abusers  
40 are or have been present. If the court finds that the alleged abuser or abusers have a  
41 history of violent behavior against people, the court shall order the alleged abuser or  
42 abusers to submit to a complete mental health evaluation by a licensed psychologist  
43 or psychiatrist. The court may order the alleged abuser or abusers to pay the cost of  
44 any mental health evaluation required under this section."

1           Section 5. G.S. 7B-506, as enacted by Section 6 of S.L. 1998-202 and as  
2 amended by Section 21 of S.L. 1998-229, is amended by adding a new subsection to  
3 read:

4       "(c1) In determining whether continued custody is warranted, the court shall  
5 consider the opinion of the mental health professional who performed an evaluation  
6 under G.S. 7B-503(b) before returning the juvenile to the custody of that individual."

7           Section 6. G.S. 7B-903, as enacted by Section 6 of S.L. 1998-202 and as  
8 amended by Section 23 of S.L. 1998-229, reads as rewritten:

9       **"§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

10       (a) The following alternatives for disposition shall be available to any court  
11 exercising jurisdiction, and the court may combine any of the applicable alternatives  
12 when the court finds the disposition to be in the best interests of the juvenile:

13           (1) The court may dismiss the case or continue the case in order to  
14 allow the parent, guardian, custodian, caretaker or others to take  
15 appropriate action.

16           (2) In the case of any juvenile who needs more adequate care or  
17 supervision or who needs placement, the court may:

18           a. Require that the juvenile be supervised in the juvenile's own  
19 home by the department of social services in the juvenile's  
20 county, or by other personnel as may be available to the  
21 court, subject to conditions applicable to the parent,  
22 guardian, custodian, or caretaker as the court may specify;  
23 or

24           b. Place the juvenile in the custody of a parent, relative,  
25 private agency offering placement services, or some other  
26 suitable person; or

27           c. Place the juvenile in the custody of the department of social  
28 services in the county of the juvenile's residence, or in the  
29 case of a juvenile who has legal residence outside the State,  
30 in the physical custody of the department of social services  
31 in the county where the juvenile is found so that agency  
32 may return the juvenile to the responsible authorities in the  
33 juvenile's home state. The director may, unless otherwise  
34 ordered by the court, arrange for, provide, or consent to,  
35 needed routine or emergency medical or surgical care or  
36 treatment. In the case where the parent is unknown,  
37 unavailable, or unable to act on behalf of the juvenile, the  
38 director may, unless otherwise ordered by the court, arrange  
39 for, provide, or consent to any psychiatric, psychological,  
40 educational, or other remedial evaluations or treatment for  
41 the juvenile placed by a court or the court's designee in the  
42 custody or physical custody of a county department of social  
43 services under the authority of this or any other Chapter of  
44 the General Statutes. Prior to exercising this authority, the

1 director shall make reasonable efforts to obtain consent from  
2 a parent or guardian of the affected juvenile. If the director  
3 cannot obtain such consent, the director shall promptly  
4 notify the parent or guardian that care or treatment has  
5 been provided and shall give the parent frequent status  
6 reports on the circumstances of the juvenile. Upon request  
7 of a parent or guardian of the affected juvenile, the results  
8 or records of the aforementioned evaluations, findings, or  
9 treatment shall be made available to such parent or guardian  
10 by the director unless prohibited by G.S. 122C-53(d). If a  
11 juvenile is removed from the home and placed in custody or  
12 placement responsibility of a county department of social  
13 services, the director shall not allow unsupervised visitation  
14 with, or return physical custody of the juvenile to, the  
15 parent, guardian, custodian, or caretaker without a hearing  
16 at which the court finds that the juvenile will receive proper  
17 care and supervision in a safe home.

18 In placing a juvenile in out-of-home care under this  
19 section, the court shall first consider whether a relative of  
20 the juvenile is willing and able to provide proper care and  
21 supervision of the juvenile in a safe home. If the court finds  
22 that the relative is willing and able to provide proper care  
23 and supervision in a safe home, then the court shall order  
24 placement of the juvenile with the relative unless the court  
25 finds that the placement is contrary to the best interests of  
26 the juvenile. Placement of a juvenile with a relative outside  
27 of this State must be in accordance with the Interstate  
28 Compact on the Placement of Children.

- 29 (3) In any case, the court may order that the juvenile be examined by  
30 a physician, psychiatrist, psychologist, or other qualified expert as  
31 may be needed for the court to determine the needs of the  
32 juvenile:

- 33 a. Upon completion of the examination, the court shall  
34 conduct a hearing to determine whether the juvenile is in  
35 need of medical, surgical, psychiatric, psychological, or other  
36 treatment and who should pay the cost of the treatment. The  
37 county manager, or such person who shall be designated by  
38 the chairman of the county commissioners, of the juvenile's  
39 residence shall be notified of the hearing, and allowed to be  
40 heard. If the court finds the juvenile to be in need of  
41 medical, surgical, psychiatric, psychological, or other  
42 treatment, the court shall permit the parent or other  
43 responsible persons to arrange for treatment. If the parent  
44 declines or is unable to make necessary arrangements, the

1 court may order the needed treatment, surgery, or care, and  
2 the court may order the parent to pay the cost of the care  
3 pursuant to G.S. 7B-904. If the court finds the parent is  
4 unable to pay the cost of treatment, the court shall order the  
5 county to arrange for treatment of the juvenile and to pay  
6 for the cost of the treatment. The county department of  
7 social services shall recommend the facility that will provide  
8 the juvenile with treatment.

- 9 b. If the court believes, or if there is evidence presented to the  
10 effect that the juvenile is mentally ill or is developmentally  
11 disabled, the court shall refer the juvenile to the area mental  
12 health, developmental disabilities, and substance abuse  
13 services director for appropriate action. A juvenile shall not  
14 be committed directly to a State hospital or mental  
15 retardation center; and orders purporting to commit a  
16 juvenile directly to a State hospital or mental retardation  
17 center except for an examination to determine capacity to  
18 proceed shall be void and of no effect. The area mental  
19 health, developmental disabilities, and substance abuse  
20 director shall be responsible for arranging an  
21 interdisciplinary evaluation of the juvenile and mobilizing  
22 resources to meet the juvenile's needs. If institutionalization  
23 is determined to be the best service for the juvenile,  
24 admission shall be with the voluntary consent of the parent  
25 or guardian. If the parent, guardian, custodian, or caretaker  
26 refuses to consent to a mental hospital or retardation center  
27 admission after such institutionalization is recommended by  
28 the area mental health, developmental disabilities, and  
29 substance abuse director, the signature and consent of the  
30 court may be substituted for that purpose. In all cases in  
31 which a regional mental hospital refuses admission to a  
32 juvenile referred for admission by a court and an area  
33 mental health, developmental disabilities, and substance  
34 abuse director or discharges a juvenile previously admitted  
35 on court referral prior to completion of treatment, the  
36 hospital shall submit to the court a written report setting out  
37 the reasons for denial of admission or discharge and setting  
38 out the juvenile's diagnosis, indications of mental illness,  
39 indications of need for treatment, and a statement as to the  
40 location of any facility known to have a treatment program  
41 for the juvenile in question.

42 (b) When the court has found that a juvenile has suffered physical abuse and that  
43 the individual responsible for the abuse has a history of violent behavior against  
44 people, the court shall consider the opinion of the mental health professional who

1 performed an evaluation under G.S. 7B-503(b) before returning the juvenile to the  
2 custody of that individual."

3 Section 7. G.S. 7B-904, as enacted by Section 6 of S.L. 1998-202, reads  
4 as rewritten:

5 "**§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or**  
6 **dependent.**

7 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
8 treatment pursuant to G.S. 7B-903, the court may order the parent or other  
9 responsible parties to pay the cost of the treatment or care ordered.

10 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
11 who has been adjudicated abused, neglected, or dependent, if the court finds that it is  
12 in the best interests of the juvenile for the ~~parent~~ parent, guardian, custodian,  
13 stepparent, adult member of the juvenile's household, or adult relative entrusted with  
14 the juvenile's care to be directly involved in the juvenile's treatment, the court may  
15 order the ~~parent~~ parent, guardian, custodian, stepparent, adult member of the  
16 juvenile's household, or adult relative entrusted with the juvenile's care to  
17 participate in medical, psychiatric, psychological, or other treatment of the juvenile.  
18 The cost of the treatment shall be paid pursuant to G.S. 7B-903.

19 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile  
20 who has been adjudicated abused, neglected, or dependent, the court may determine  
21 whether the best interests of the juvenile require that the ~~parent~~ parent, guardian,  
22 custodian, stepparent, adult member of the juvenile's household, or adult relative  
23 entrusted with the juvenile's care undergo psychiatric, psychological, or other  
24 treatment or counseling directed toward remediating or remedying behaviors or  
25 conditions that led to or contributed to the juvenile's adjudication or to the court's  
26 decision to remove custody of the juvenile from the ~~parent~~ parent, guardian,  
27 custodian, stepparent, adult member of the juvenile's household, or adult relative  
28 entrusted with the juvenile's care. If the court finds that the best interests of the  
29 juvenile require the ~~parent~~ parent, guardian, custodian, stepparent, adult member of  
30 the juvenile's household, or adult relative entrusted with the juvenile's care undergo  
31 treatment, it may order ~~the parent~~ that individual to comply with a plan of treatment  
32 approved by the court or condition legal custody or physical placement of the  
33 juvenile with the ~~parent~~ parent, guardian, custodian, stepparent, adult member of the  
34 juvenile's household, or adult relative entrusted with the juvenile's care upon the  
35 ~~parent's~~ that individual's compliance with the plan of treatment. The court may order  
36 the ~~parent~~ parent, guardian, custodian, stepparent, adult member of the juvenile's  
37 household, or adult relative entrusted with the juvenile's care to pay the cost of  
38 treatment ordered pursuant to this subsection. In cases in which the court has  
39 conditioned legal custody or physical placement of the juvenile with the ~~parent~~  
40 parent, guardian, custodian, stepparent, adult member of the juvenile's household, or  
41 adult relative entrusted with the juvenile's care upon ~~the parent's~~ compliance with a  
42 plan of treatment, the court may charge the cost of the treatment to the county of the  
43 juvenile's residence if the court finds the ~~parent~~ parent, guardian, custodian,  
44 stepparent, adult member of the juvenile's household, or adult relative entrusted

1 with the juvenile's care is unable to pay the cost of the treatment. In all other cases,  
2 if the court finds the ~~parent~~ parent, guardian, custodian, stepparent, adult member of  
3 the juvenile's household, or adult relative entrusted with the juvenile's care is unable  
4 to pay the cost of the treatment ordered pursuant to this subsection, the court may  
5 order ~~the parent~~ that individual to receive treatment currently available from the area  
6 mental health program that serves the parent's catchment area.

7 (d) Whenever legal custody of a juvenile is vested in someone other than the  
8 juvenile's parent, after due notice to the parent and after a hearing, the court may  
9 order that the parent pay a reasonable sum that will cover, in whole or in part, the  
10 support of the juvenile after the order is entered. If the court requires the payment of  
11 child support, the amount of the payments shall be determined as provided in G.S.  
12 50-13.4(c). If the court places a juvenile in the custody of a county department of  
13 social services and if the court finds that the parent is unable to pay the cost of the  
14 support required by the juvenile, the cost shall be paid by the county department of  
15 social services in whose custody the juvenile is placed, provided the juvenile is not  
16 receiving care in an institution owned or operated by the State or federal government  
17 or any subdivision thereof.

18 (e) Failure of a parent who is personally served to participate in or comply with  
19 this section may result in a proceeding for civil contempt."

20 Section 8. G.S. 7B-1003, as enacted by Section 6 of S.L. 1998-202, reads  
21 as rewritten:

22 "**§ 7B-1003. Disposition pending appeal.**

23 Pending disposition of an appeal, the return of the juvenile to the custody of the  
24 parent or guardian of the juvenile, with or without conditions, should issue in every  
25 case unless the court orders otherwise. When the court has found that a juvenile has  
26 suffered physical abuse and that the individual responsible for the abuse has a history  
27 of violent behavior, the court shall consider the opinion of the mental health  
28 professional who performed the evaluation under G.S. 7B-503(b) before returning the  
29 juvenile to the custody of that individual. For compelling reasons which must be  
30 stated in writing, the court may enter a temporary order affecting the custody or  
31 placement of the juvenile as the court finds to be in the best interests of the juvenile  
32 or the State. The provisions of subsections (b), (c), and (d) of G.S. 7B-905 shall  
33 apply to any order entered under this section which provides for the placement or  
34 continued placement of a juvenile in foster care."

35 Section 9. This act becomes effective October 1, 1999, and applies to  
36 petitions filed on or after that date.