

**2001**

**HOUSE  
CHILDREN, YOUTH, &  
FAMILIES**

**MINUTES**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
2001 SESSION**

**COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**REPRESENTATIVE FLOSSIE BOYD-MCINTYRE  
CHAIRMAN**

**REPRESENTATIVE HOWARD J. HUNTER, JR.  
CHAIRMAN**

**REPRESENTATIVE EDITH WARREN  
VICE CHAIR**

## COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

### MEMBERSHIP

Howard J. Hunter, Jr., Chair	613LOB	733-2962	Barbara Phillips
Flossie Boyd-McIntyre, Chair	506 LOB	733-5974	Mia Bailey
Edith Warren, Vice Chair	417LOB	715-3019	Nancy Willis
Martha Alexander	2208LB	733-5807	Ann Faust
Jeff Barnhart	1019LB	733-5661	Melanie McNeely
Ruth Easterling	631LOB	733-5900	Marie Horne
William Hiatt	1008LB	733-5862	Edna Pearce
Margaret Jeffus	1013LB	733-5191	Mary Robinson
Linda Johnson	1217LB	733-5757	Debbie Pons
Mary McAllister	638LOB	733-5959	Marilyn Suitt
Frank Mitchell	513LOB	733-5931	Susan West
Mia Morris	1315LB	733-5741	Joy Feagin
Art Pope	539LOB	733-5809	Barbara Rhodes

#### Legislative Assistants:

Barbara Y. Phillips – 733-2962

Mia Bailey – 733-5905

#### Research Staff: 733-2578

Erika Churchill

Frank Folger

Wendy Graf

**NORTH CAROLINA GENERAL ASSEMBLY**

**CHILDREN, YOUTH AND FAMILIES**

**2001 – 2002 SESSION**



**Rep. Boyd-McIntyre**  
**Chair**



**Rep. Hunter**  
**Chair**



**Rep. Warren**  
**Vice-Chair**



**Rep. Alexander**



**Rep. Barnhart**



**Rep. Easterling**



**Rep. Hiatt**



**Rep. Jeffus**



**Rep. Johnson**



**Rep. McAllister**



**Rep. Mitchell**



**Rep. Morris**



**Rep. Pope**

## ATTENDANCE

**HOUSE COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

[illegible]

**CORRECTED NOTICE**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**       **Tuesday, February 27, 2001**

**TIME:**               **12 noon**

**LOCATION:**          **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):  
**No bills will be on the agenda. This will be an organizational meeting.**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at 1 p.m on February 22, 2001.

\_\_\_Principal Clerk  
\_\_\_Reading Clerk - House Chamber

Barbara Y. Philllips (Committee Assistant)

**AGENDA**

**COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

Rep. Howard J. Hunter, Jr.  
Rep. Flossie Boyd-McIntyre  
**Co – Chairs**

February 27, 2001  
12 noon

Opening Remarks

Introduction

Committee Members  
Research Staff

Remarks

Adjournment

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 27 February 2001**

**12 noon**

The Committee on Children, Youth and Families met on Tuesday, 27 February 2001 at 12 p.m. in Room 605 of the Legislative Office Building for its first organizational meeting. Members attending the meeting were Representatives Alexander, Barnhart, Easterling, Jeffus, Johnson, McAllister and Pope. Representatives Boyd-McIntyre (Co-Chair), Hunter (Co-Chair) and Warren (Vice-Chair) were also in attendance. General Assembly staff members present were Erika Churchill, Frank Folger and Wendy Graf. The agenda (Exhibit 1) and Visitor Registration Sheet (Exhibit 2) are attached hereto and incorporated into the minutes.

Representative Howard Hunter presided and called the meeting to order. The chair began the meeting by welcoming all visitors, committee members, staff and pages. Rep. Hunter stated that this meeting was called for organizational purposes and invited committee members to introduce themselves and make remarks.

Rep. Hunter recognized his Co-Chair, Rep. Flossie Boyd-McIntyre to introduce herself and address the committee. Rep. Boyd-McIntyre welcomed all in attendance and stressed the importance of the committee to actively work to meet the needs of children, youth and families.

Following the introductions/remarks from committee members, Rep. Hunter stated that at the present time, there was only one bill for review. This bill will be reviewed at the next meeting scheduled for Tuesday, 6 March 2001.

This concluded the business of the committee and the meeting was adjourned.



Rep. Howard J. Hunter, Jr. Co-Chair Presiding

Mia Bailey  
Committee Assistant



## CHILDREN, YOUTH AND FAMILIES

2-27-01

Date \_\_\_\_\_

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**[illegible]

**Barbara Phillips (Rep. H. Hunter)**

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**From:** Barbara Phillips (Rep. H. Hunter)  
**Sent:** Thursday, March 01, 2001 10:20  
**To:** Barbara Phillips (Rep. H. Hunter)  
**Subject:** Meeting Notice

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:** Tuesday, March 6, 2001

**TIME:** 12 noon

**LOCATION:** 605LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

House Bill – 241 – Family Drug Treatment Court Program

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre

Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at 1 p.m on February 22, 2001.

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001 SESSION**

**BILL SPONSOR:** Rep. Warner  
**OFFICE ROOM NO:** Room 1206  
**NOTIFICATION DATE:** March 1, 2001

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**The House Committee on Children, Youth and Families will meet as follows:**

**Tuesday, March 6, 2001  
12 noon  
Room 605 LOB**

**Your bill will be discussed at this time:  
H241 – Family Drug Treatment Court Program**

**Rep. Howard J. Hunter, Co-Chair  
Rep. Flossie Boyd-McIntyre, Co-Chair**

**Barbara Phillips  
Committee Assistant**

**AGENDA**

**COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

Rep. Howard J. Hunter, Jr.  
Rep. Flossie Boyd-McIntyre  
**Co – Chairs**

March 6, 2001  
12 noon

Call to Order

Bill

**HB 241 – AN ACT TO AUTHORIZE THE ESTABLISHMENT  
OF A FAMILY DRUG TREATMENT COURT PROGRAM IN  
NORTH CAROLINA AND TO FUND THE PROGRAM, AS  
RECOMMENDED BY THE LEGISLATIVE STUDY  
COMMISSION ON CHILDREN AND YOUTH.**

**Sponsor: Representative Warner**

Remarks

Adjournment

## MINUTES

### COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

Tuesday, March 6, 2001

12Noon

The Committee on Children, Youth and Families met on Tuesday, 6 March 2001 at 12:00 p.m. in Room 605 of the Legislative Office Building. Members attending the meeting were Representatives Alexander, Barnhart, Jeffus, Mc Allister, Mitchell and Starnes. Research staff members present were Erika Churchill, Frank Folger and Wendy Graf. The Agenda and Visitor Registration Sheet are attached.

Representative Edith Warren presided, in the absence of the co-chairs. The Pages were introduced. The meeting was called to order to consider HB 241. Representative Warner, Bill Sponsor, was recognized to explain the Bill.

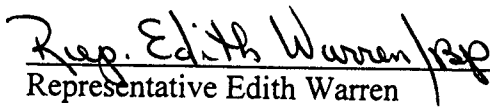
Representative Warner stated that this bill comes as a recommendation from the Children and Youth Commission. Frank Folger, Committee Counsel, distributed a summary of the bill to the members. Representative Alexander had a question concerning the language on line 13 of the bill. After much discussion about the language, it was suggested that staff make the technical amendments for a committee substitute.


There was much discussion regarding the cost of the project. An experimental project was done in Charlotte(Mecklenburg County) The funds appropriated for one year for the project in Mecklenburg was \$127,000. There were 20 participants and the project was a success. It was also stated that this project would eventually be statewide as funds are available. The \$600,000 as shown in the bill, is the estimated amount for one or more projects to be developed statewide.

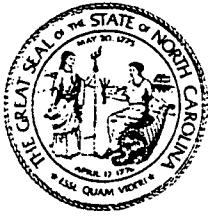
It was suggested that the bill be amended to include the changes as discussed.

Representative McAllister moved that HB 241 be given a favorable report as amended, and referred to Judiciary II. Representative Jeffus seconded it. The motion carried.

There was no further business, and the meeting was adjourned.

  
Representative Edith Warren  
Vice Chair

  
Barbara Y. Phillips  
Committee Assistant



# HOUSE BILL 241: Family Drug Treatment Court Program

## BILL ANALYSIS

**Committee:** House Children, Youth and Families

**Date:** March 6, 2001

**Version:** First Edition

**Introduced by:** Representative Warner

**Summary by:** Frank W. Folger  
Committee Counsel

**SUMMARY:** *This bill would broaden the North Carolina Drug Treatment Court Act, Article 62 of G.S. Chapter 7A, to authorize the Administrative Office of the Courts (AOC) to develop a family drug treatment court program within the existing framework of the North Carolina Drug Treatment Court Program; expand the Act's current scope to incorporate goals of reducing incidents of child abuse and neglect caused by substance abuse or drug or alcohol addiction; and appropriate six hundred thousand dollars (\$600,000) to the AOC solely to develop, implement, and evaluate one or more local family drug treatment court programs.*

**CURRENT LAW:** There is no statutory family drug treatment court program in North Carolina. When a child is taken into custody by the Department of Social Services on allegations of child abuse and neglect, the provisions of G.S. §7B-500 *et. seq.* govern the court proceedings for custody, adjudication of the abuse or neglect petition, and disposition (post-adjudication effort to resolve the issues which led to the removal of custody and to find a safe permanent home for the child within a reasonable period of time). The court can order, as part of disposition, that a parent or caretaker complete alcohol or substance abuse treatment if it is determined that the individual has an alcohol or substance abuse problem. Additionally, if the petition alleges that the child has been physically abused and the county department of social services can show the alleged abuser has a history of violent behavior against people, the court can order the alleged abuser to obtain a mental health evaluation.

## BILL ANALYSIS:

Section 1. would expand the stated purpose of the North Carolina Drug Treatment Court Act (hereinafter "the Act") to include reduction of incidents of child abuse and neglect resulting from substance abuse and addiction. It also would specifically add "alcohol addiction" to the categories of behavior that the Act intends to address.

Section 2. would broaden the goals of the Act to include:

- Reduction of substance abuse and addiction among respondents in juvenile petitions for abuse, neglect or both;
- Reduction of the incidence of child abuse and neglect;
- Reduction of alcohol-related court workload;
- Increasing accountability of respondents in juvenile petitions for abuse, neglect or both;
- Promoting interaction and resource sharing between child protective services, criminal justice and community agencies.

Section 3. specifically would allow for family drug treatment court programs to be developed locally, as stand-alone programs or part of larger drug treatment court programs. It also would allow juvenile drug treatment court programs to be included in the future.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 241\*

Short Title: Family Drug Treatment Court Program.

(Public)

Sponsors: Representatives Warner, Gulley, Hunter, Jeffus; Barefoot, Bonner, Haire, Hurley, Lucas, Rogers, Smith, Sutton, Tolson, Wainwright, and Yongue.

Referred to: Children, Youth and Families, if favorable, Judiciary II.

February 26, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A FAMILY DRUG  
3 TREATMENT COURT PROGRAM IN NORTH CAROLINA AND TO FUND  
4 THE PROGRAM, AS RECOMMENDED BY THE LEGISLATIVE STUDY  
5 COMMISSION ON CHILDREN AND YOUTH.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 7A-791 reads as rewritten:

8 "§ 7A-791. Purpose.

9 The General Assembly recognizes that a critical need exists in this State for ~~criminal~~  
10 ~~justice system~~ judicial programs that will reduce the incidence of ~~drug use and~~  
11 ~~substance abuse, drug and alcohol addiction and addiction,~~ crimes committed as a result  
12 of ~~drug use substance abuse and drug and alcohol addiction, addiction, and child abuse~~  
13 ~~and neglect committed as a result of substance abuse and drug and alcohol addiction.~~ It  
14 is the intent of the General Assembly by this Article to create a program to facilitate the  
15 creation of local drug treatment court programs."

16 SECTION 2. G.S. 7A-792 reads as rewritten:

17 "§ 7A-792. Goals.

18 The goals of the drug treatment court programs funded under this Article include the  
19 following:

- 20 (1) To reduce alcoholism and other drug dependencies among  
21 ~~offenders; offenders and respondents in juvenile petitions for abuse,~~  
22 neglect, or both;  
23 (2) To reduce ~~criminal reeivivism;~~ recidivism and the incidence of child  
24 abuse and neglect;  
25 (3) To reduce the alcohol-and drug-related court workload;

- (6) A representative of the guardian ad litem program;  
(5) (7) A member of the private criminal defense bar;  
(8) A member of the private bar who represents respondents in department of social services juvenile matters;  
(6) (9) A clerk of superior court;  
(7) (10) The trial court administrator in judicial districts served by a trial court administrator;  
(11) The director or member of the child welfare services division of a county department of social services within the district;  
(8) (12) A probation officer;  
(9) (13) A local law enforcement officer;  
(14) A representative of the local school administrative unit;  
(10) (15) A representative of the local community college;  
(11) (16) A representative of the treatment providers;  
(17) A representative of the area mental health program;  
(12) (18) The local program director provided for in G.S. 7A-798; and  
(13) (19) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court."

**SECTION 6.** G.S. 7A-799 reads as rewritten:

**"§ 7A-799. Treatment not guaranteed.**

Nothing contained in this Article shall confer a right or an expectation of a right to treatment for a defendant or offender within the criminal justice ~~system~~ system or a respondent in a juvenile petition for abuse, neglect, or both."

**SECTION 7.** G.S. 7A-800 reads as rewritten:

**"§ 7A-800. Payment of costs of treatment program.**

~~Each defendant or defendant, offender-offender, or respondent in a juvenile petition for abuse, neglect, or both, who receives treatment under a local drug treatment court program~~ shall contribute to the cost of the substance abuse treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee."

**SECTION 8.** The sum of six hundred thousand dollars (\$600,000) for the 2001-2002 fiscal year is appropriated from the General Fund to the Administrative Office of the Courts to be used solely to develop, implement, and evaluate one or more local family drug treatment court programs.

**SECTION 9.** This act becomes effective October 1, 2001.



**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Howard Hunter and Flossie Boyd-McIntyre** Chairs for the  
Committee on **CHILDREN, YOUTH AND FAMILIES**.

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☐ Committee Substitute for

H.B. 241 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ESTABLISHMENT  
OF A FAMILY DRUG TREATMENT COURT PROGRAM IN NORTH CAROLINA AND  
TO FUND THE PROGRAM, AS RECOMMENDED BY THE LEGISLATIVE STUDY  
COMMISSION ON CHILDREN AND YOUTH.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on  
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill, unfavorable as to original bill and  
recommendation that the committee substitute bill be re-referred to the Committee on  
JUDICIARY II.

☐ With a favorable report as to House committee substitute bill (#            ), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

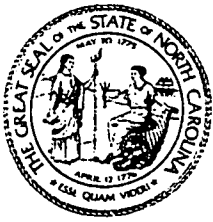
☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01



## BILL ANALYSIS

# HOUSE BILL 241: Family Drug Treatment Court Program

**Committee:** House Children, Youth and Families

**Date:** March 6, 2001

**Version:** First Edition

**Introduced by:** Representative Warner

**Summary by:** Frank W. Folger  
Committee Counsel

**SUMMARY:** *This bill would broaden the North Carolina Drug Treatment Court Act, Article 62 of G.S. Chapter 7A, to authorize the Administrative Office of the Courts (AOC) to develop a family drug treatment court program within the existing framework of the North Carolina Drug Treatment Court Program; expand the Act's current scope to incorporate goals of reducing incidents of child abuse and neglect caused by substance abuse or drug or alcohol addiction; and appropriate six hundred thousand dollars (\$600,000) to the AOC solely to develop, implement, and evaluate one or more local family drug treatment court programs.*

**CURRENT LAW:** There is no statutory family drug treatment court program in North Carolina. When a child is taken into custody by the Department of Social Services on allegations of child abuse and neglect, the provisions of G.S. §7B-500 *et. seq.* govern the court proceedings for custody, adjudication of the abuse or neglect petition, and disposition (post-adjudication effort to resolve the issues which led to the removal of custody and to find a safe permanent home for the child within a reasonable period of time). The court can order, as part of disposition, that a parent or caretaker complete alcohol or substance abuse treatment if it is determined that the individual has an alcohol or substance abuse problem. Additionally, if the petition alleges that the child has been physically abused and the county department of social services can show the alleged abuser has a history of violent behavior against people, the court can order the alleged abuser to obtain a mental health evaluation.

### BILL ANALYSIS:

Section 1. would expand the stated purpose of the North Carolina Drug Treatment Court Act (hereinafter "the Act") to include reduction of incidents of child abuse and neglect resulting from substance abuse and addiction. It also would specifically add "alcohol addiction" to the categories of behavior that the Act intends to address.

Section 2. would broaden the goals of the Act to include:

- Reduction of substance abuse and addiction among respondents in juvenile petitions for abuse, neglect or both;
- Reduction of the incidence of child abuse and neglect;
- Reduction of alcohol-related court workload;
- Increasing accountability of respondents in juvenile petitions for abuse, neglect or both;
- Promoting interaction and resource sharing between child protective services, criminal justice and community agencies.

Section 3. specifically would allow for family drug treatment court programs to be developed locally, as stand-alone programs or part of larger drug treatment court programs. It also would allow juvenile drug treatment court programs to be included in the future.

# HOUSE BILL 241

Page 2

Section 4. would require the child protective services community be broadly represented on the State Drug Treatment Court Advisory Committee.

Section 5. would require that each local drug treatment court management committee appropriately represents the parties and entities involved in the type or types of drug court program operations to be conducted, provide that the chief district court judge concur in the senior resident superior court judges committee membership selection, and mandate that each committee membership be selected from the list provided, to which is added:

- A DSS attorney;
- A GAL representative;
- An attorney who represents parents and caretakers in DSS juvenile matters;
- A DSS director or child welfare services division member
- A local school representative; and
- A mental health agency representative.

Sections 6. and 7. would make conforming changes to the sections on "Treatment not guaranteed" and payment of treatment costs.

Section 8. would appropriate \$600,000 from the General Fund to AOC to solely develop, implement, and evaluate one or more local family drug treatment court programs.

Section 9. makes the act effective October 1, 2001.

**BACKGROUND:** The North Carolina Drug Treatment Court Act was enacted in 1995. It established the North Carolina Drug Treatment Court Program, which addresses substance abuse as the source of crime. As a derivative or part of its local drug court treatment program, Mecklenburg County implemented its Family Drug Treatment Court Program, which addresses substance abuse problems that lead to child abuse and neglect that ultimately requires removal of the children the custody of the substance abuser. The family substance abuse treatment court program is part of a therapeutic court concept being explored nationwide.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 241\*  
PROPOSED COMMITTEE SUBSTITUTE H241\*-PCS3158-SO-2

Short Title: Family Drug Treatment Court Program.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A FAMILY DRUG  
TREATMENT COURT PROGRAM IN NORTH CAROLINA AND TO FUND  
THE PROGRAM, AS RECOMMENDED BY THE LEGISLATIVE STUDY  
COMMISSION ON CHILDREN AND YOUTH.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7A-790 reads as rewritten:

"§ 7A-790. **Short title.**

This Article shall be known and may be cited as the 'North Carolina Drug Treatment  
Court Act of 1995 Act'."

**SECTION 2.** G.S. 7A-791 reads as rewritten:

"§ 7A-791. **Purpose.**

The General Assembly recognizes that a critical need exists in this State for ~~criminal~~  
~~justice system~~ judicial programs that will reduce the incidence of ~~drug use and~~  
~~substance abuse~~, drug and alcohol addiction, ~~addiction and~~ crimes committed as a result  
of ~~drug use and substance abuse or drug and alcohol addiction~~, addiction, and child  
abuse and neglect that occurs as a result of substance abuse or drug and alcohol  
addiction. It is the intent of the General Assembly by this Article to create a program to  
facilitate the creation of local drug treatment court programs."

**SECTION 3.** G.S. 7A-792 reads as rewritten:

"§ 7A-792. **Goals.**

The goals of the drug treatment court programs funded under this Article include the  
following:

- (1) To reduce alcoholism and other drug dependencies among  
~~offenders; offenders and respondents in juvenile petitions for abuse,~~  
neglect, or both;
- (2) To reduce ~~criminal recidivism;~~ recidivism and the incidence of child  
abuse and neglect;
- (3) To reduce the alcohol-and drug-related court workload;

(4) To increase the personal, familial, and societal accountability of ~~offenders; offenders and respondents in juvenile petitions for abuse, neglect, or both; and~~

(5) To promote effective interaction and use of resources among criminal justice ~~personnel-personnel, child protective services personnel, and~~ community agencies."

SECTION 4. G.S. 7A-793 reads as rewritten:

**"§ 7A-793. Establishment of Program.**

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation and funding of local drug treatment court programs. The Director of the Administrative Office of the Courts shall provide any necessary staff for planning, organizing, and administering the program. Local drug treatment court programs funded pursuant to this Article shall be operated consistently with the guidelines adopted pursuant to G.S. 7A-795. Local drug treatment court programs established and funded pursuant to this Article may consist of adult drug treatment court programs, juvenile drug treatment court programs, family drug treatment court programs, or any combination of these programs."

SECTION 5. G.S. 7A-795 reads as rewritten:

**"§ 7A-795. State Drug Treatment Court Advisory Committee.**

The State Drug Treatment Court Advisory Committee is established to develop and recommend to the Director of the Administrative Office of the Courts guidelines for the drug treatment court program and to monitor local programs wherever they are implemented. The Committee shall be chaired by the Director or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, law enforcement, corrections, child protective services, and substance abuse treatment communities. In developing guidelines, the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force."

SECTION 6. G.S. 7A-796 reads as rewritten:

**"§ 7A-796. Local drug treatment court management committee.**

Each judicial district choosing to establish a drug treatment court shall form a local drug treatment court management committee, which shall be comprised to assure representation appropriate to the type or types of drug treatment court operations to be conducted in the district and shall consist of consisting of the following persons, persons appointed by the senior resident superior court judge with the concurrence of the chief district court judge and the district attorney for that district; district, chosen from the following list:

(1) A judge of the superior court;

(2) A judge of the district court;

(3) A district attorney or assistant district attorney;

(4) A public defender or assistant public defender in judicial districts served by a public defender;

- 1           (5)    An attorney representing a county department of social services within  
2           the district;  
3           (6)    A representative of the guardian ad litem program;  
4        (5) (7)    A member of the private criminal defense bar;  
5           (8)    A member of the private bar who represents respondents in county  
6           department of social services juvenile matters;  
7        (6) (9)    A clerk of superior court;  
8        (7) (10)   The trial court administrator in judicial districts served by a trial court  
9           administrator;  
10       (11)   The director or member of the child welfare services division of a  
11       county department of social services within the district;  
12       (8) (12)   A probation officer;  
13       (9) (13)   A local law enforcement officer;  
14       (14)   A representative of the local school administrative unit;  
15       (10) (15)   A representative of the local community college;  
16       (11) (16)   A representative of the treatment providers;  
17       (17)   A representative of the area mental health program;  
18       (12) (18)   The local program director provided for in G.S. 7A-798; and  
19       (13) (19)   Any other persons selected by the local management committee.

20       The local drug treatment court management committee shall develop local  
21       guidelines and procedures, not inconsistent with the State guidelines, that are necessary  
22       for the operation and evaluation of the local drug treatment court program."

23       SECTION 7. G.S. 7A-799 reads as rewritten:

24       "**§ 7A-799. Treatment not guaranteed.**

25       Nothing contained in this Article shall confer a right or an expectation of a right to  
26       treatment for a defendant or offender within the criminal justice ~~system~~ system or a  
27       respondent in a juvenile petition for abuse, neglect, or both."

28       SECTION 8. G.S. 7A-800 reads as rewritten:

29       "**§ 7A-800. Payment of costs of treatment program.**

30       Each ~~defendant or defendant, offender-offender, or respondent in a juvenile petition~~  
31       for abuse, neglect, or both, who receives treatment under a local drug treatment court  
32       program shall contribute to the cost of the substance abuse treatment received in the  
33       drug treatment court program, based upon guidelines developed by the local drug  
34       treatment court management committee."

35       SECTION 9. The sum of six hundred thousand dollars (\$600,000) for the  
36       2001-2002 fiscal year is appropriated from the General Fund to the Administrative  
37       Office of the Courts to be used solely to develop, implement, and evaluate one or more  
38       local family drug treatment court programs.

39       SECTION 10. This act becomes effective October 1, 2001.

Section 2

VISITOR REGISTRATION SHEET

Andrew Gault, Treasurer

Name of Committee

3-6-01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Helen Wolstenholme

DW of MH/ED/EAS

Miriam Saxon

Administrative Office of the Courts

Kirstin Frescoln

" " "

Debra Grueneboom

YAIU - DDA

Michelle Cotton

DMA/DD/SA

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**        **Tuesday, March 20, 2001**

**TIME:**                **12 noon**

**LOCATION:**          **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**House Bill 375 – Department of Social Services Changes 1  
Bill Sponsor – Rep. Culpepper**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at 4 pm., March 14, 2001

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)



**AGENDA**

**COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Rep. Howard J. Hunter, Jr.  
Rep. Flossie Boyd-McIntyre  
Co – Chairs**

**March 20, 2001  
12 noon**

**Call to Order**

**Bill**

**HB 375 – Department of Social Services Changes 1  
Bill Sponsor: Rep. Culpepper**

**Remarks**

**Adjournment**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Representative Culpepper

**OFFICE:** Room 404

**NOTIFICATION DATE:** 3-14-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will  
meet as follows:**

**DAY & DATE:** 3-20-01

**TIME:** 12 NOON

**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**HB 375 - Department of Social Services Changes 1**

We would like to have you attend this meeting.

Representative Flossie Boyd-McIntyre  
Chairman

Barbara Phillips (Committee Assistant)

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 20 March 2001**

**12 noon**

**Room 605, Legislative Office Building**

The Committee on Children, Youth and Families met on Tuesday, 20 March 2001, at 12 noon in Room 605 of the Legislative Office Building. House members attending the meeting were: Rep. Flossie Boyd-McIntyre, Chair, Edith Warren, Vice-Chair, Martha Alexander, Jeff Barnhart, Ruth Easterling, Margaret Jeffus, Linda Johnson, Mary McAllister, Frank Mitchell and Edgar Starnes. Research staff, Erika Churchill and Wendy Graf were also in attendance. The Agenda (Exhibit 1) and Visitor Registration Sheet (Exhibit 2) are attached hereto and incorporated into the minutes.

Rep. Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming committee members, staff and visitors. The chair proceeded to acknowledge the Sergeant At Arms staff and Committee Assistants Mia Bailey and Barbara Phillips.

The only item on the agenda was House Bill 375 – Department of Social Services Changes 1, Bill Sponsor: Rep. William Culpepper. Rep. Mary McAllister moved for adoption of the Proposed Committee Substitute for the purpose of discussion. The motion carried.

Due to the technical issues and complexities surrounding this bill, the Chair stated that the sole purpose of this committee session would be for discussion and clarification of the bill. Rep. Culpepper then asked Erika Churchill to further explain changes to the bill that the PCS proposed.

Erika Churchill explained that House Bill 375: DSS Changes I-AB would make clarifying and other substantive changes to statutes pertaining to child welfare, in five broad categories (Exhibit 3). To further clarify the timetable for Abuse/Neglect/Dependency Action, Ms. Churchill provided a timeline by the same name (Exhibit 4).

After the presentation by Ms. Churchill, the members discussed possible amendments to the bill. Rep. Culpepper acknowledged that additional changes to the bill were inevitable. Once those changes are made, he would re-present the bill, with its changes, before the committee again.

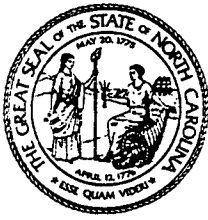
**With no other business before the committee, Rep. Boyd-McIntyre adjourned the meeting.**

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**Representative Flossie Boyd-McIntyre, Co-Chair Presiding**

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**Mia D. Bailey, Committee Assistant**



# HOUSE BILL 375: DSS Changes I-AB

## BILL ANALYSIS

**Committee:** House Children, Youth & Families

**Date:** March 20, 2001

**Version:** HB375-CSLY-1v.7

**Introduced by:** Representative Culpepper

**Summary by:** R. Erika Churchill  
Committee Counsel

**SUMMARY:** *The bill makes various changes to statutes pertaining to child welfare, effective January 1, 2002, and applies to actions filed on or after that date.*

**BILL ANALYSIS:** The bill would make clarifying and other substantive changes to statutes pertaining to child welfare, in five broad categories. The following is a summary of the changes, organized by broad category and referenced to the bill section.

- **Clarifying Changes – Timing Issues.** This category covers those sections that set a time frame in which a child protective services juvenile court order must be reduced to writing, signed by the judge, and filed with the Clerk of Clerk. Attached is a time line of a child protective services court case, with the additional time constraints for the court orders. (Please see attached.)
- **Clarifying Changes – Other.** This category covers those sections which make clarifying changes to the newly codified Chapter 7B.
  1. **Section 1. Service of Summons.** Current law requires that a summons in an abuse, neglect, or dependency action be served on the parent, guardian, custodian, or caretaker of the juvenile. The abuse/neglect/dependency statute is silent as to whether it is appropriate to serve the parent of the juvenile if the parent is a minor. This section clarifies that the minor parent is to be served with the summons in an abuse/neglect/dependency petition by adding the language shown.
  2. **Sections 8 and 9. Title IV-E Funding.** Federal law requires that in order to receive federal foster care (Title IV-E) funds, there must be a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. Sections 8 and 9 add this language to the statutes setting forth the dispositional alternatives for undisciplined and delinquent juveniles so that if a court orders custody or placement of the juvenile with DSS, then the court must find that it is in the juvenile's best interest not to continue in the juvenile's own home, thereby accessing Title IV-E funds to help support the juvenile.
  3. **Section 10. Access to Juvenile Records.** This section pertains to the maintenance and confidentiality of records in abuse/neglect/dependency cases. This section was in Article 54 of the old juvenile code. When this section was recodified, the provision describing who may have access to a juvenile's records without a court order was left out. Under the added language, the following persons would have access and be able to make copies of a juvenile's record without a court order: the juvenile (even when the juvenile reaches majority), the guardian ad litem, the county DSS, and the Juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian.
- **Changes To The Adoption Statutes.**

# HOUSE BILL 375

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1. Section 11. Transmittal of Adoption Records. This section would change current law so that the clerk does not have to send any documents in an adoption proceeding until after the decree of adoption is entered. Under this provision, the adoption proceeding documents would have to be sent within 10 days after the decree of adoption is entered or 10 days after the final disposition of an appeal. The language would also add that the clerk would maintain the original petition and final decree in the clerk's records.
2. Section 12. Adult Adoption/Notice. Consent to the adoption of an adult is required only of the adult being adopted and the spouse of the petitioner in an adoption by the adult's stepparent. G.S. 48-5-102. In the case of an adult adoption, in addition to the persons who are required to be notified in all adoptions, notice of the petition for adoption must be served on any adult children of the prospective adoptive parent; any parent of the adult adoptee; the spouse of the adult adoptee; any adult child of the adult adoptee. This section would change current law so that notice would no longer have to be served on the parent of the adult adoptee if the court finds good cause not to do so.
3. Section 13. Certificate of Identification. Current vital statistics law generally provides that when an adoption is finalized, the State Registrar prepares a new birth certificate that contains the name of the adoptee and adoptive parents. In the case of an adopted person born in a foreign country and residing in North Carolina at the time of application for a certificate, the State Registrar prepares a certificate of identification. This section would change State law by requiring the State Registrar to prepare a certificate of identification for any adopted person born in a foreign country and readopted in this State upon the receipt of a report of the adoption from the Division of Social Services, regardless of whether the adopted person is residing in this State at the time of the application for the certificate.
4. Section 14. Affidavit of Parentage. Adoption law provides for the execution of an affidavit of parentage to assist the court in determining whether a direct placement is valid and all necessary consents have been obtained. Currently, the parent or guardian who placed the child must execute this affidavit. Sometimes the parent or guardian is not available to execute the affidavit. The change set forth in subsection (a) would permit a knowledgeable individual to provide the information in the affidavit if the parent or guardian is not available. Current law requires that in the case of an agency placement, the agency must obtain the affidavit of parentage. The change set forth in subsection (b) would eliminate this requirement when the agency has obtained legal and physical custody of a child by a court order terminating the parental rights of a parent or guardian. The TPR order contains the information set forth in the affidavit or parentage.
5. Section 15. Revocation of Relinquishment. Current law requires that a relinquishment of a minor for adoption must state that the individual voluntarily consents to the permanent transfer of legal and physical custody of the minor to the adoption agency for the purposes of adoption, and either (a) the placement of the minor for adoption with a prospective adoptive parent selected by the agency, or (b) the placement of the minor for adoption with a prospective adoptive parent selected by the agency and agreed upon by the individual executing the relinquishment. If the relinquishor parent stated that the relinquishment was for an adoption by a specific prospective adoptive parent named or described in the relinquishment and such adoption is not completed, then the relinquishor parent has the ability to revoke the relinquishment. The change in this section provides that the relinquishor parent's time to revoke would be ten days' from the agency's notice, inclusive of weekends and holidays, and must be in writing. The change also provides that if the agency cannot locate the parent and/or if the parent does not revoke the relinquishment within the ten-day

# HOUSE BILL 375

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time period, then the agency may place the child for adoption with a prospective adoptive parent selected by the agency.

- **Substantive Changes – Termination of Parental Rights (TPR).** This category covers those sections amending the Termination of Parental Rights (TPR) statutes.
  1. **Section 6. Grounds for Termination.** This section would clarify the grounds upon which the Court may grant a petition for termination of parental rights. Two separate grounds are amended: willful abandonment and violence in the home by the parent. In the case of willful abandonment, the section would clarify that termination may be granted upon a showing that the parent has willfully left the child in foster care or other placement outside the home for a total more than 12 months. Secondly, the section would clarify that the petitioner has the responsibility of proving that the parent has committed murder or voluntary manslaughter of another child of the parent or a child residing in the parent's home; or has aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of the child, another child of the parent or a child residing in the parent's home; or has committed a felony assault that results in serious bodily injury to the child, another child of the parent or a child residing in the parent's home.
  2. **Section 25. Right to Appeal.** This section would amend G.S. 7B-1001 to require any notice of appeal to the Court of Appeals must be in writing. This would make the TPR statutes conform to the Rules of Appellate procedure, which govern appeals to the Court of Appeals.
  3. **Section 26. Appeals: Modification of order after Affirmation.** This section would clarify that the juvenile acting through the juvenile's guardian ad litem, if one has been appointed, may appeal the order of adjudication or the order of disposition, provided the appeal is made in writing within 10 days after entry of the order.
  4. **Section 27. Disposition pending appeal.** This section would clarify that the judge has the authority, but is not required, to place the juvenile with the parent or guardian of the juvenile pending the disposition of an appeal.
  5. **Section 28. Issuance of Summons.** This section would clarify that the juvenile, no matter what age, is served with the summons and petition in a TPR action. Additionally, the section would require that the papers directed to the juvenile must be served upon the juvenile's guardian ad litem, if one has been appointed.
- **Substantive Changes – Other.** This category covers those sections amending child welfare statutes other than the TPR statutes.
  1. **Section 2. Right to Counsel.** Current law provides that a parent has a right to counsel in actions where a juvenile is alleged to have been abused, neglected, or dependent. This section changes current law by adding that a guardian ad litem will be appointed to represent a parent if the parent is a minor or where it is alleged that the juvenile is a dependent juvenile because the parent is incapacitated because of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition.
  2. **Section 3. Court Authority over Parents.** Current law provides that when a court has adjudicated a juvenile as abused, neglected, or dependent, the court has certain authority over the parents of that juvenile. This section changes current law by expanding the authority of the court over the parents to permit the court to order the parents to attend and participate in parental responsibility classes, provide transportation to the juvenile to keep appointments for treatments, and to take appropriate steps to remedy conditions in

# HOUSE BILL 375

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the home that led to the juvenile's adjudication. Currently, failure of a parent to comply with a court's order may result in a proceeding for civil contempt. This section changes current law by stating that the parent may be found in civil or criminal contempt and by specifically setting forth the procedure governing the contempt proceedings.

3. Section 4. Visitation Plan. Current law provides that a dispositional order in a juvenile abuse/neglect/dependency case shall provide for appropriate visitation as may be in the juvenile's best interest. In the case of a juvenile placed in DSS custody, the court may order the Director of DSS to facilitate a visitation plan expressly approved by the court. The change in law proposed in this section would make it clear that if the director later makes a good faith determination that the visitation plan is not in the juvenile's best interest (because, for example, the juvenile is being abused during the visitation), then the director can temporarily suspend all or part of the visitation plan until further review by the court.
4. Section 5. Permanency Planning. Current law provides for permanency planning for juveniles who have been removed as a result of abuse, neglect or dependency. If a juvenile has been in DSS custody and has been placed outside the home for 15 of the most recent 22 months, the court must order the director of DSS to initiate a proceeding to terminate parental rights. This section would change current law by reducing the time period from 15 to 12 months and by requiring the director of DSS automatically to initiate TPR proceedings.
5. Section 21. Voluntary Placement Agreements (VPA). Currently, when juveniles are voluntarily placed in foster care, the court reviews the initial placement within 180 days after the placement and thereafter reviews the placement whenever the court finds it to be appropriate. Juveniles placed voluntarily in foster care may not remain in foster care for more than 12 months without the filing of a petition alleging abuse, neglect, or dependency. The section would change current law by shortening the time period within which the initial review hearing is to be held to 90 days after placement and mandating that an additional review hearing be held at least every 90 days thereafter. Further, this section changes current law by shortening the time period a juvenile may remain in foster care under a voluntary placement without filing a petition to 6 months.
6. Section 24. Inquiry as to Paternity. Current law provides that a juvenile may not be held under a nonsecure custody order for more than seven days without a hearing on the merits or a hearing to determine the need for continued custody. The statute sets forth the specific inquiries the court must make during the hearing. This section changes current law by adding a requirement that the court inquire as to whether paternity is at issue and if so, what efforts are being undertaken to establish paternity.

**EFFECTIVE DATE:** The bill would become effective January 1, 2002, and apply to actions commenced on or after that date.

Dianna Jessup contributed to this summary.  
HB375-CSLY-1-v.7



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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1

HOUSE BILL 375\*

Short Title: DSS Changes 1-AB.

(Public)

Sponsors: Representatives Culpepper; and Alexander.

Referred to: Children, Youth and Families.

March 1, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFYING AND OTHER CHANGES TO THE GENERAL  
3 STATUTES PERTAINING TO CHILD WELFARE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7B-406 reads as rewritten:

6 "**§ 7B-406. Issuance of summons.**

7 (a) Immediately after a petition has been filed alleging that a juvenile is abused,  
8 neglected, or dependent, the clerk shall issue a summons to the parent, guardian,  
9 custodian, or caretaker requiring them to appear for a hearing at the time and place  
10 stated in the summons. A copy of the petition shall be attached to each summons.  
11 Service of the summons shall be completed as provided in G.S. 7B-407, but the parent  
12 of the juvenile shall not be deemed to be under disability even though the parent is a  
13 minor."

14 SECTION 2. G.S. 7B-602 reads as rewritten:

15 **§ 7B-602. (V2)(Effective July 1, 2001) Parent's right to ~~counsel~~counsel; guardian**  
16 **ad litem.**

17 (a) In cases where the juvenile petition alleges that a juvenile is abused,  
18 neglected, or dependent, the parent has the right to counsel and to appointed counsel in  
19 cases of indigency unless that person waives the right.

20 (b) In addition to the right to appointed counsel set forth above, a guardian ad  
21 litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to  
22 represent a parent in the following cases:

23 (1) Where it is alleged that the juvenile is a dependent juvenile within the  
24 meaning of G.S. 7B-101 in that the parent is incapable as the result of  
25 substance abuse, mental retardation, mental illness, organic brain  
26 syndrome, of any other similar cause or condition of providing for the  
27 proper care and supervision of the juvenile; or

28 (2) Where the parent is under the age of 18 years."

## SECTION 3. G.S. 7B-904 reads as rewritten:

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

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

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

(c) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile who has been adjudicated abused, neglected, or dependent,~~ the court may determine whether the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care. If the court finds that the best interests of the juvenile require the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo treatment, it may order that individual to comply with a plan of treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon that individual's compliance with the plan of treatment. The court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon compliance with a plan of treatment, the court may charge the cost of the treatment to the county of the juvenile's residence if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment ordered pursuant to this subsection, the court may order that individual to

1 receive treatment currently available from the area mental health program that serves  
2 the parent's catchment area.

3 (d) ~~Whenever~~ At the dispositional hearing or a subsequent hearing, when legal  
4 custody of a juvenile is vested in someone other than the juvenile's parent, after due  
5 notice to the parent and after a hearing, if the court finds that the parent is able to do so,  
6 the court may order that the parent pay a reasonable sum that will cover, in whole or in  
7 part, the support of the juvenile after the order is entered. If the court requires the  
8 payment of child support, the amount of the payments shall be determined as provided  
9 in G.S. 50-13.4(c). If the court places a juvenile in the custody of a county department  
10 of social services and if the court finds that the parent is unable to pay the cost of the  
11 support required by the juvenile, the cost shall be paid by the county department of  
12 social services in whose custody the juvenile is placed, provided the juvenile is not  
13 receiving care in an institution owned or operated by the State or federal government or  
14 any subdivision thereof.

15 (d1) At the dispositional hearing or a subsequent hearing, the court may order the  
16 parent, guardian, custodian, stepparent, adult member of the juvenile's household, or  
17 adult relative entrusted with the juvenile's care to do any of the following:

18 (1) Attend parental responsibility classes if those classes are available in  
19 the judicial district in which the parent, guardian, custodian,  
20 stepparent, adult member of the juvenile's household, or adult relative  
21 entrusted with the juvenile's care resides.

22 (2) Provide, to the extent that person is able to do so, transportation for the  
23 juvenile to keep appointments for medical, psychiatric, psychological,  
24 or other treatment ordered by the court if the juvenile remains in or is  
25 returned to the home.

26 (3) Take appropriate steps to remedy conditions in the home that led to or  
27 contributed to the juvenile's adjudication or to the court's decision to  
28 remove custody of the juvenile from the parent, guardian, custodian,  
29 stepparent, adult member of the juvenile's household, or adult relative  
30 entrusted with the juvenile's care.

31 (e) ~~Failure of a parent who is personally served to participate in or comply with~~  
32 ~~this section may result in a proceeding for civil contempt. Upon motion of a party or~~  
33 upon the court's own motion, the court may issue an order directing the parent,  
34 guardian, custodian, stepparent, adult member of the juvenile's household, or adult  
35 relative entrusted with the juvenile's care to appear and show cause why the parent,  
36 guardian, custodian, stepparent, adult member of the juvenile's household, or adult  
37 relative entrusted with the juvenile's care should not be found or held in civil or criminal  
38 contempt for willfully failing to comply with an order of the court. Chapter 5A of the  
39 General Statutes shall govern contempt proceedings initiated pursuant to this section."

40 SECTION 4. G.S. 7B-905(c) reads as rewritten:

41 "(c) Any dispositional order shall comply with the requirements of G.S. 7B-507.  
42 Any dispositional order under which a juvenile is removed from the custody of a parent,  
43 guardian, custodian, or caretaker, or under which the juvenile's placement is continued  
44 outside the home, shall provide for appropriate visitation as may be in the best interests

1 of the juvenile and consistent with the juvenile's health and safety. If the juvenile is  
2 placed in the custody or placement responsibility of a county department of social  
3 services, the court may order the director to arrange, facilitate, and supervise a visitation  
4 plan expressly approved by the court. If the director subsequently makes a good faith  
5 determination that the visitation plan may not be in the best interests of the juvenile or  
6 consistent with the juvenile's health and safety, the director may temporarily suspend all  
7 or part of the visitation plan. The director shall not be subjected to any motion to show  
8 cause for this suspension, but shall expeditiously file a motion for review."

9 **SECTION 5.** G.S. 7B-907(d) reads as rewritten:

10 "(d) In the case of a juvenile who is in the custody or placement responsibility of a  
11 county department of social services, and has been in placement outside the home for ~~15~~  
12 12 of the most recent 22 months; or a court of competent jurisdiction has determined  
13 that the parent has abandoned the child; or has committed murder or voluntary  
14 manslaughter of another child of the parent; or has aided, abetted, attempted, conspired,  
15 or solicited to commit murder or voluntary manslaughter of the child or another child of  
16 the parent, ~~the court shall order~~ the director of the department of social services ~~to~~ shall  
17 initiate a proceeding to terminate the parental rights of the parent unless the court finds:

- 18 (1) The permanent plan for the juvenile is guardianship or custody with a  
19 relative or some other suitable person;
- 20 (2) The court makes specific findings why the filing of a petition for  
21 termination of parental rights is not in the best interests of the child; or
- 22 (3) The department of social services has not provided the juvenile's  
23 family with such services as the department deems necessary, when  
24 reasonable efforts are still required to enable the juvenile's return to a  
25 safe home."

26 **SECTION 6.** G.S. 7B-1111(2) reads as rewritten:

27 "(2) The parent has willfully left the juvenile in foster care or placement  
28 outside the home for more than 12 of the most recent 22 months  
29 without showing to the satisfaction of the court that reasonable  
30 progress under the circumstances has been made ~~within 12 months~~ in  
31 correcting those conditions which led to the removal of the juvenile.  
32 Provided, however, that no parental rights shall be terminated for the  
33 sole reason that the parents are unable to care for the juvenile on  
34 account of their poverty."

35 **SECTION 7.** G.S. 7B-910 reads as rewritten:

36 **"§ 7B-910. Review of voluntary foster care placements.**

37 (a) The court shall review the placement of any juvenile in foster care made  
38 pursuant to a voluntary agreement between the juvenile's parents or guardian and a  
39 county department of social services and shall make findings from evidence presented at  
40 a review hearing with regard to:

- 41 (1) The voluntariness of the placement;
- 42 (2) The appropriateness of the placement;
- 43 (3) Whether the placement is in the best interests of the juvenile; and

(4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.

(b) The court may approve the continued placement of the juvenile in foster care on a voluntary agreement basis, disapprove the continuation of the voluntary placement, or direct the department of social services to petition the court for legal custody if the placement is to continue.

(c) An initial review hearing shall be held not more than 180 days after the juvenile's placement and shall be calendared by the clerk for hearing within such period upon timely request by the director of social services. Additional review hearings shall be held at least every 180 days thereafter and at such times as the court ~~shall deem appropriate and~~ shall direct, either upon its own motion or upon written request of the parents, guardian, foster parents, or director of social services. A juvenile placed under a voluntary agreement between the juvenile's parent or guardian and the county department of social services shall not remain in placement more than 12 months without the filing of a petition alleging abuse, neglect, or dependency.

(d) The clerk shall give at least 15 days' advance written notice of the initial and subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12 or more years of age, to the director of social services, and to any other persons whom the court may specify. "

**SECTION 8.** G.S. 7B-1109(a) reads as rewritten:

"(a) The hearing on the termination of parental rights shall be conducted by the court sitting without a jury and shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 90 days from the filing of the petition or motion unless the judge pursuant to subsection (d) orders that it be held at a later time. Reporting of the hearing shall be as provided by G.S. 7A-198 for reporting civil trials."

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

"(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
- b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
- c. Place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return

the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

**SECTION 10.** G.S. 7B-2506(1) reads as rewritten:

- "(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
- a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the

1 physical custody of a department of social services in the  
2 county where the juvenile is found so that agency may return  
3 the juvenile to the responsible authorities in the juvenile's home  
4 state. An order placing a juvenile in the custody or placement  
5 responsibility of a county department of social services shall  
6 contain a finding that the juvenile's continuation in the  
7 juvenile's own home would be contrary to the juvenile's best  
8 interest. This placement shall be reviewed in accordance with  
9 G.S. 7B-906. The director may, unless otherwise ordered by the  
10 judge, arrange for, provide, or consent to, needed routine or  
11 emergency medical or surgical care or treatment. In the case  
12 where the parent is unknown, unavailable, or unable to act on  
13 behalf of the juvenile or juveniles, the director may, unless  
14 otherwise ordered by the judge, arrange for, provide, or consent  
15 to any psychiatric, psychological, educational, or other remedial  
16 evaluations or treatment for the juvenile placed by a judge or  
17 his designee in the custody or physical custody of a county  
18 department of social services under the authority of this or any  
19 other Chapter of the General Statutes. Prior to exercising this  
20 authority, the director shall make reasonable efforts to obtain  
21 consent from a parent, guardian, or custodian of the affected  
22 juvenile. If the director cannot obtain consent, the director shall  
23 promptly notify the parent, guardian, or custodian that care or  
24 treatment has been provided and shall give the parent, guardian,  
25 or custodian frequent status reports on the circumstances of the  
26 juvenile. Upon request of a parent, guardian, or custodian of the  
27 affected juvenile, the results or records of the aforementioned  
28 evaluations, findings, or treatment shall be made available to  
29 the parent, guardian, or custodian by the director unless  
30 prohibited by G.S. 122C-53(d)."

31 **SECTION 11.** G.S. 7B-2901(a) reads as rewritten:

32 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the  
33 clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from  
34 public inspection and, except as provided in this subsection, may be examined only by  
35 order of the court. The record shall include the summons, petition, custody order, court  
36 order, written motions, the electronic or mechanical recording of the hearing, and other  
37 papers filed in the proceeding. The recording of the hearing shall be reduced to a written  
38 transcript only when notice of appeal has been timely given. After the time for appeal  
39 has expired with no appeal having been filed, the recording of the hearing may be  
40 erased or destroyed upon the written order of the court.

41 The following persons may examine the juvenile's record maintained pursuant to  
42 this subsection and obtain copies of written parts of the record without an order of the  
43 court:

44 (1) The juvenile;

- (2) The guardian ad litem;  
(3) The county department of social services; and  
(4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian or custodian."

SECTION 12. G.S. 48-9-102(d) reads as rewritten:

"(d) ~~Records must be sent by the clerk of superior court to the Division in the following order:~~

- (1) ~~Within 10 days after the petition is filed with the clerk of the superior court, a copy of the petition giving the date of the filing of the original petition and the original of each consent and relinquishment must be filed by the clerk with the Division.~~  
(2) ~~Within 10 days after the decree of adoption is entered, the clerk must file with the Division the additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered, and a copy of the final order.~~

(d) All records filed in connection with an adoption, including a copy of the petition giving the date of the filing of the original petition, the original of each consent and relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered and a copy of the final decree, shall be sent by the clerk of superior court to the Division within 10 days after the decree of adoption is entered or 10 days following the final disposition of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree shall be retained by the clerk."

SECTION 13. G.S. 48-2-401(d) reads as rewritten:

"(d) In the adoption of an adult, the petitioner shall also serve notice of the filing on any adult children of the prospective adoptive parent and any ~~parent, spouse, spouse~~ or adult child of the adoptee who are listed in the petition to adopt."

SECTION 14. G.S. 130A-108 reads as rewritten:

**"§ 130A-108. Certificate of identification for individual of foreign birth.**

(a) In the case of an adopted individual born in a foreign country and residing in this State at the time of application, the State Registrar shall, upon the presentation of a certified copy of the original birth certificate from the country of birth and a certified copy of the final order of adoption signed by the clerk of court or other appropriate official, prepare a certificate of identification for the individual. The certificate shall contain the same information required by G.S. 48-9-107(a) for individuals adopted in this State, except that the country of birth shall be specified in lieu of the state of birth.

(b) In the case of an adopted individual born in a foreign country and readopted in this State, the State Registrar shall, upon receipt of a report of that adoption from the Division of Social Services pursuant to G.S.48-9-102(f), prepare a certificate of identification for that individual. The certificate shall contain the same information required by G.S.48-9-107(a) for individuals adopted in this State, except the country of birth shall be specified in lieu of the state of birth."

SECTION 15. G.S. 48-3-206 reads as rewritten:

**"§ 48-3-206. Affidavit of parentage.**



(a) To assist the court in determining that a direct placement was valid and all necessary consents have been obtained, the parent or guardian who placed the minor shall execute an affidavit setting out names, last known addresses, and marital status of the minor's parents or possible parents.

(b) In an agency placement, the agency shall obtain from at least one individual who relinquishes a minor to the agency an affidavit setting out the information required in subsection (a) of this section. This affidavit is not necessary when the agency acquires legal and physical custody of a minor for purposes of adoptive placement by a court order terminating the parental rights of a parent or guardian.

SECTION 16. G.S. 48-3-704 reads as rewritten:

"§ 48-3-704. **Content of relinquishment; optional provisions.**

In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment may also state that the relinquishment may be revoked upon notice by the agency that an adoption by a specific prospective adoptive parent, named or described in the relinquishment is not completed. In this event the parent's time to revoke a relinquishment is 10 days, inclusive of weekends and holidays, from the date the parent receives such notice from the agency. The revocation shall be in writing and delivered in a manner specified in G.S. 48-3-706(a) for revocation of relinquishments. An agency, which after the exercise of due diligence cannot personally locate the parent entitled to this notice, may deposit a copy of the notice in the United States mail, return receipt requested, addressed to the address of the parent given in the relinquishment, and the date of receipt by the parent is deemed to be the date of delivery or last attempted delivery. If a parent does not revoke the relinquishment in the time and manner provided in this section, the relinquishment is deemed a general relinquishment to the agency and the agency may place the child for adoption with a prospective adoptive parent selected by the agency.

SECTION 17. G.S. 7B-506(d) reads as rewritten:

"(d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and should continue in custody, the court shall issue an order to that effect. The order shall be in writing with appropriate findings of ~~fact~~. fact and signed and entered within 30 days of the completion of the hearing. The findings of fact shall include the evidence relied upon in reaching the decision and the purposes which continued custody is to achieve."

SECTION 18. G.S. 807 reads as rewritten:

"§ 7B-807. **Adjudication.**

(a) If the court finds that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the adjudicatory hearing.

SECTION 19. G.S. 905(a) reads as rewritten:

1       "(a) The dispositional order shall be in ~~writing~~ writing, signed, and entered no  
2 later than 30 days from the completion of the hearing, and shall contain appropriate  
3 findings of fact and conclusions of law. The court shall state with particularity, both  
4 orally and in the written order of disposition, the precise terms of the disposition  
5 including the kind, duration, and the person who is responsible for carrying out the  
6 disposition and the person or agency in whom custody is vested."

7       **SECTION 20.** G.S. 906(d) reads as rewritten:

8       "(d) The court, after making findings of fact, may appoint a guardian of the person  
9 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by  
10 G.S. 7B-903, including the authority to place the juvenile in the custody of either parent  
11 or any relative found by the court to be suitable and found by the court to be in the best  
12 interests of the juvenile. The court may enter an order continuing the placement under  
13 review or providing for a different placement as is deemed to be in the best interests of  
14 the juvenile. The order must be reduced to writing, signed, and entered within 30 days  
15 of the completion of the hearing. If at any time custody is restored to a parent, guardian,  
16 custodian, or caretaker the court shall be relieved of the duty to conduct periodic  
17 judicial reviews of the placement."

18       **SECTION 21.** G.S. 7B-907(c) reads as rewritten:

19       "(c) At the conclusion of the hearing, the judge shall make specific findings as to  
20 the best plan of care to achieve a safe, permanent home for the juvenile within a  
21 reasonable period of time. The judge may appoint a guardian of the person for the  
22 juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903  
23 including the authority to place the child in the custody of either parent or any relative  
24 found by the court to be suitable and found by the court to be in the best interest of the  
25 juvenile. If the juvenile is not returned home, the court shall enter an order consistent  
26 with its findings that directs the department of social services to make reasonable efforts  
27 to place the juvenile in a timely manner in accordance with the permanent plan, to  
28 complete whatever steps are necessary to finalize the permanent placement of the  
29 juvenile, and to document such steps in the juvenile's case plan. Any order shall be  
30 reduced to writing, signed, and entered no later than 30 days following the completion  
31 of the hearing. If at any time custody is restored to a parent, or findings are made in  
32 accordance with G.S. 7B-906(b), the court shall be relieved of the duty to conduct  
33 periodic judicial reviews of the placement."

34       If the court continues the juvenile's placement in the custody or placement  
35 responsibility of a county department of social services, the provisions of G.S. 7B-507  
36 shall apply to any order entered under this section."

37       **SECTION 22.** G.S. 7B-910(c) reads as rewritten:

38       "(c) An initial review hearing shall be held not more than ~~180~~ 90 days after the  
39 juvenile's placement and shall be calendared by the clerk for hearing within such period  
40 upon timely request by the director of social services. Additional review hearings shall  
41 be held at least every 90 days thereafter and at such times as the court shall deem  
42 appropriate and shall direct, either upon its own motion or upon written request of the  
43 parents, guardian, foster parents, or director of social services. A juvenile placed under a  
44 voluntary agreement between the juvenile's parent or guardian and the county

1 department of social services shall not remain in placement more than 12 months  
2 without the filing of a petition alleging abuse, neglect, or dependency."

3 **SECTION 23.** G.S. 7B-1109(e) reads as rewritten:

4 "(e) The court shall take evidence, find the facts, and shall adjudicate the  
5 existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which  
6 authorize the termination of parental rights of the respondent. The adjudicatory order  
7 shall be reduced to writing, signed, and entered no later than 30 days following the  
8 completion of the termination of parental rights hearing."

9 **SECTION 24.** G.S. 7B-1110(a) reads as rewritten:

10 "(a) Should the court determine that any one or more of the conditions authorizing  
11 a termination of the parental rights of a parent exist, the court shall issue an order  
12 terminating the parental rights of such parent with respect to the juvenile unless the  
13 court shall further determine that the best interests of the juvenile require that the  
14 parental rights of the parent not be terminated. Any order shall be reduced to writing,  
15 signed, and entered no later than 30 days following the completion of the termination of  
16 parental rights hearing."

17 **SECTION 25.** G.S. 7B-506(h) reads as rewritten:

18 "(h) At each hearing to determine the need for continued custody, the court shall:

19 (1) Inquire as to the identity and location of any missing ~~parent~~. parent and  
20 as to whether paternity is at issue. The court shall include findings as  
21 to the efforts undertaken to locate the missing parent and to serve that  
22 ~~parent~~ parent, as well as efforts undertaken to establish paternity when  
23 paternity is an issue. The order may provide for specific efforts aimed  
24 at determining the identity and location of any missing ~~parent~~; parent,  
25 as well as specific efforts aimed at establishing paternity.

26 (2) Inquire as to whether a relative of the juvenile is willing and able to  
27 provide proper care and supervision of the juvenile in a safe home. If  
28 the court finds that the relative is willing and able to provide proper  
29 care and supervision in a safe home, then the court shall order  
30 temporary placement of the juvenile with the relative unless the court  
31 finds that placement with the relative would be contrary to the best  
32 interests of the juvenile. In placing a juvenile in nonsecure custody  
33 under this section, the court shall consider the Indian Child Welfare  
34 Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and  
35 the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub.  
36 L. No. 103-382, 108 Stat. 4056, as amended, as they may apply.  
37 Placement of a juvenile with a relative outside of this State must be in  
38 accordance with the Interstate Compact on the Placement of Children  
39 set forth in Article 38 of this Chapter; and

40 (3) Inquire as to whether there are other juveniles remaining in the home  
41 from which the juvenile was removed and, if there are, inquire as to  
42 the specific findings of the investigation conducted under G.S. 7B-302  
43 and any actions taken or services provided by the director for the  
44 protection of the other juveniles."

SECTION 26. G.S. 1111(a) reads as rewritten:

"§ 7B-1111. Grounds for terminating parental rights.

(a) The court may terminate the parental rights upon a finding of one or more of the following:

- (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.
- (2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made ~~within 12 months~~ in correcting those conditions which led to the removal of the juvenile. Provided, however, that no parental rights shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.
- (3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
- (4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.
- (5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights:
  - a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or
  - b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or
  - c. Legitimated the juvenile by marriage to the mother of the juvenile; or
  - d. Provided substantial financial support or consistent care with respect to the juvenile and mother.

- 1 (6) That the parent is incapable of providing for the proper care and  
2 supervision of the juvenile, such that the juvenile is a dependent  
3 juvenile within the meaning of G.S. 7B-101, and that there is a  
4 reasonable probability that such incapability will continue for the  
5 foreseeable future. Incapability under this subdivision may be the  
6 result of substance abuse, mental retardation, mental illness, organic  
7 brain syndrome, or any other similar cause or condition.
- 8 (7) The parent has willfully abandoned the juvenile for at least six  
9 consecutive months immediately preceding the filing of the petition or  
10 motion.
- 11 (8) The parent has committed murder or voluntary manslaughter of  
12 another child of the parent or other child residing in the home; has  
13 aided, abetted, attempted, conspired, or solicited to commit murder or  
14 voluntary manslaughter of the child, another child of the parent, or  
15 other child residing in the home; or has committed a felony assault that  
16 results in serious bodily injury to the child, another child of the parent,  
17 or other child residing in the home. The petitioner has the burden of  
18 proving any of these offenses in the termination of parental rights  
19 hearing by (i) proving the elements of the offense by clear, cogent,  
20 and convincing evidence, or (ii) offering proof that a court of  
21 competent jurisdiction has convicted the parent of the offense, whether  
22 or not the conviction was by way of a jury verdict or any kind of plea.
- 23 (9) The parental rights of the parent with respect to another child of the  
24 parent have been terminated involuntarily by a court of competent  
25 jurisdiction and the parent lacks the ability or willingness to establish a  
26 safe home."

27 SECTION 27. G.S. 7B-1001 reads as rewritten:

28 "§ 7B-1001. Right to appeal.

29 Upon motion of a proper party as defined in G.S. 7B-1002, review of any final order  
30 of the court in a juvenile matter under this Article shall be before the Court of Appeals.  
31 Notice of appeal shall be given ~~in open court at the time of the hearing or~~ in writing  
32 within 10 days after entry of the order. However, if no disposition is made within 60  
33 days after entry of the order, written notice of appeal may be given within 70 days after  
34 such entry. A final order shall include:

- 35 (1) Any order finding absence of jurisdiction;  
36 (2) Any order which in effect determines the action and prevents a  
37 judgment from which appeal might be taken;  
38 (3) Any order of disposition after an adjudication that a juvenile is abused,  
39 neglected, or dependent; or  
40 (4) Any order modifying custodial rights."

41 SECTION 28. G.S. 7B-1113 reads as rewritten:

42 "§ 7B-1113. Appeals; modification of order after affirmation.

43 Any juvenile, juvenile acting through the juvenile's guardian ad litem if one is  
44 appointed parent, guardian, custodian, or agency who is a party to a proceeding under

1 this Article may appeal from an adjudication or any order of disposition to the Court of  
2 Appeals, provided that notice of appeal is given ~~in open court at the time of the hearing~~  
3 ~~or~~ in writing within 10 days after entry of the order. Entry of an order shall be treated in  
4 the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina  
5 Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a  
6 temporary order affecting the custody or placement of the juvenile as the court finds to  
7 be in the best interests of the juvenile or the best interests of the State. Upon the  
8 affirmation of the order of adjudication or disposition of the court in a juvenile case by  
9 the Court of Appeals, or by the Supreme Court in the event of an appeal, the court shall  
10 have authority to modify or alter its original order of adjudication or disposition as the  
11 court finds to be in the best interests of the juvenile to reflect any adjustment made by  
12 the juvenile or change in circumstances during the period of time the case on appeal was  
13 pending, provided that if the modifying order be entered ex parte, the court shall give  
14 notice to interested parties to show cause, if any there be, within 10 days thereafter, as  
15 to why the modifying order should be vacated or altered."

16 **SECTION 29.** G.S. 7B-1003 reads as rewritten:

17 **"§ 7B-1003. Disposition pending appeal.**

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

30 **SECTION 30.** G.S. 7B-1106(a) reads as rewritten:

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

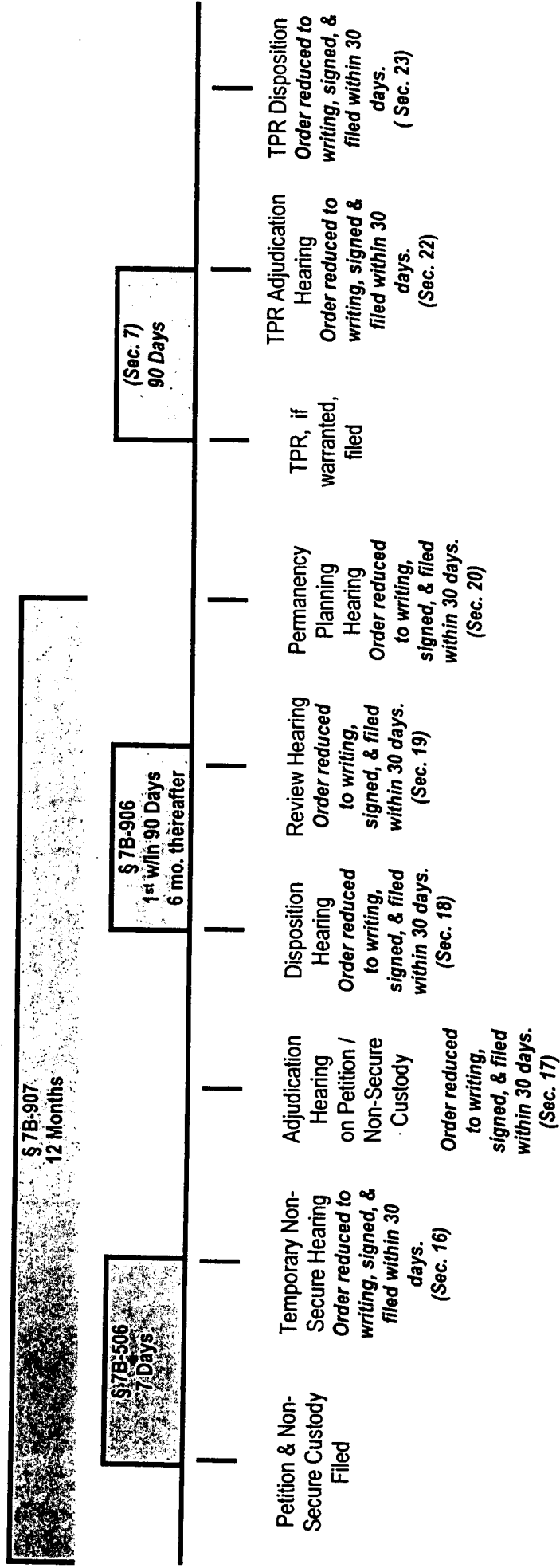
- 34 (1) The parents of the juvenile;
- 35 (2) Any person who has been judicially appointed as guardian of the  
36 person of the juvenile;
- 37 (3) The custodian of the juvenile appointed by a court of competent  
38 jurisdiction;
- 39 (4) Any county department of social services or licensed child-placing  
40 agency to whom a juvenile has been released by one parent pursuant to  
41 Part 7 of Article 3 of Chapter 48 of the General Statutes or any county  
42 department of social services to whom placement responsibility for the  
43 child has been given by a court of competent jurisdiction; and

1           (5)    The juvenile, if ~~the juvenile is 12 years of age or older at the time the~~  
2                   ~~petition is filed.~~ individually and through the juvenile's guardian ad  
3                   litem if one has been appointed.

4            Provided, no summons need be directed to or served upon any parent who, under  
5   Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county  
6   department of social services or licensed child-placing agency nor to any parent who  
7   has consented to the adoption of the juvenile by the petitioner. The summons shall  
8   notify the respondents to file a written answer within 30 days after service of the  
9   summons and petition. Service of the summons shall be completed as provided under  
10   the procedures established by G.S. 1A-1, Rule 4(j); but the parent of the juvenile shall  
11   not be deemed to be under disability even though the parent is a minor."

12           **SECTION 31.** This act becomes effective January 1, 2002.

# TimeLine of an Abuse/Neglect/Dependency Action





VISITOR REGISTRATION SHEET

Children, Youth & Families  
Name of Committee

3/20/01  
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

<u>Paula Pearson</u>	<u>NCA</u>
<u>Walter J. Jones</u>	<u>YAI</u>
<u>Roz Savitt</u>	<u>NCCO</u>
<u>Alison David</u>	<u>NSSC</u>
<u>Esther High</u>	<u>NCDSS</u>
<u>Shansone</u>	<u>NCDSS</u>
<u>Chuck Harris</u>	<u>NCDSS</u>
<u>LANA DIAL</u>	<u>AOC</u>
<u>Kella Fisher</u>	<u>AOC</u>
<u>John Ruetz</u>	<u>NCFPC</u>
<u>John Smith</u>	<u>NCFPC</u>
<u>Larry &amp; Jared Bass</u>	<u>Jorai Academy</u>
<u>J. B. McCants</u>	<u>AOC</u>

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**        **Tuesday, March 27, 2001**

**TIME:**                **12 noon**

**LOCATION:**           **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**House Bills 456 – Child Abuse in Child Care Facility Study  
457 - Repeal Child Care Fraud Prevention Incentive**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices on March 21, 2001

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001 SESSION**

**BILL SPONSORS:** Rep. Alexander, Rep. Boyd-McIntyre, Rep. Hunter

**NOTIFICATION DATE** March 22, 2001

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**The House Committee on Children, Youth and Families will meet as follows:**

**Tuesday, March 27, 2001  
12 noon  
Room 605 LOB**

**Your bill will be discussed at this time:**

**H456 – Child Abuse in Child Care Facility Study  
H457 – Repeal Child Care Fraud Prevention Incentive**

**Rep. Howard J. Hunter, Co-Chair  
Rep. Flossie Boyd-McIntyre, Co-Chair**

**Barbara Phillips  
Committee Assistant**

**COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Rep. Howard J. Hunter, Jr.  
Rep. Flossie Boyd-McIntyre  
Co – Chairs**

**March 27, 2001  
12 noon**

**Introductions and Opening Remarks  
Representative Flossie Boyd-McIntyre**

**Agenda Item:**

**HB 456 – Child Abuse in Child Care Facility Study-AB**

**Adjournment**

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**TUESDAY, MARCH 27, 2001  
12 NOON**

The House Committee on Children, Youth and Families met on Tuesday, March 27, 2001, at 12 noon in Room 605 of the Legislative Office Building. Representative Boyd-McIntyre presided. Members present are as follows: Representatives Alexander, Boyd-McIntyre, Hunter, Barnhart, Easterling, Jeffus, Johnson, McAllister, Mitchell, Morris, and Starnes. Research staff members present were: Erika Churchill and Wendy Graf. Visitors in attendance are recorded on the attached registration sheet. The chair began the meeting by welcoming the pages.


House Bill 456 Entitled: AN ACT TO ESTABLISH A LEGISLATIVE STUDY COMMISSION ON THE INVESTIGATION OF CHILD ABUSE AND NEGLECT IN CHILD CARE FACILITIES. Representative Hunter was recognized to explain the bill. See attached bill analysis provided by Frank Folger, Committee Counsel.

Representative McAllister moved for a favorable report. The motion carried. House Bill 456 was re-referred to the Committee on Rules, Calendar and Operations of the House.

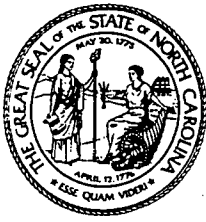
There was no further business, and the meeting was adjourned.

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Flossie Boyd-McIntyre, Co Chairman

  
Barbara Phillips, Committee Assistant

Attachments



## BILL ANALYSIS

# HOUSE BILL 456: Child Abuse in Child Care Facility Study - AB

**Committee:** House Children, Youth and Families  
**Date:** March 27, 2001  
**Version:** First Edition

**Introduced by:** Representative Hunter  
**Summary by:** Frank W. Folger  
Committee Counsel

**SUMMARY:** *This bill would establish the Legislative Study Commission on the Investigation of Child Abuse and Neglect in Child Care Facilities (the Commission), the duty of which would be to examine how child abuse and neglect in child care facilities matters are investigated and determine the most effective and efficient means of investigation to ensure child safety.*

**NOTE:** IF GIVEN A FAVORABLE REPORT, THE BILL IS TO BE REFERRED TO THE HOUSE RULES, CALENDAR, AND OPERATIONS COMMITTEE.

**BILL ANALYSIS:** Section 1. would establish the 14-member Commission and its make-up. The Speaker of the House would appoint a total of seven members, one of each of the following:

1. Member of the House
2. Child care provider
3. Parent of a child in child care
4. Pediatrician
5. Representative of a local law enforcement agency
6. Representative from the Attorney General's office
7. Representative from a medical research facility that deals with children's injuries.

The President Pro Tem of the Senate also would appoint a total of seven members, one of each of the following:

1. Member of the Senate
2. Child care provider
3. Director of a local department of social services
4. Representative from the Division of Facility Services who works with the Health Care Personnel Registry
5. Representative from the Division of Child Development
6. Representative from the North Carolina Child Care Commission
7. Representative from a local childcare resource and referral agency.

Section 2. would direct the Commission to study the investigation process following allegations of child abuse and/or neglect in child care facilities. The goal of the study would be to determine the most effective and efficient investigative procedures to insure safe children. Specifically, the Commission, in its study, is directed to:

# HOUSE BILL 456

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- Identify factors that hinder local agencies and law enforcement from efficient, effective investigations;
- Determine the reason for these factors and their impact on children safety;
- Recommend ways to make these investigations more effective and efficient, with specific allowance to suggest revision to agency responsibilities;
- Determine the impact on children safety of the presence of child care workers who are child abuse and neglect perpetrators;
- Recommend on the need for work-related sanctions against these perpetrators;
- Recommend on the need for a registry of these perpetrators, who would have access to such a registry, and how to protect the due process rights of alleged perpetrators.

Section 3. would require the Commission to make an interim report to the 2002 Regular Session of the 2001 General Assembly and a final report to the 2003 General Assembly.

**BACKGROUND:** This initiative has been sparked by some recent incidences that have raised concerns in the Division of Child Development, Department of Health and Human Services (DHHS) about the effectiveness and efficiency of these types of investigations.

**EFFECTIVE DATE:** Effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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1

HOUSE BILL 456

Short Title: Child Abuse in Child Care Facility Study-AB.

(Public)

Sponsors: Representatives Hunter; Alexander, Boyd-McIntyre, Goodwin, Morris, and Wainwright.

Referred to: Children, Youth and Families, if favorable, Rules, Calendar and Operations of the House.

March 1, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A LEGISLATIVE STUDY COMMISSION ON THE INVESTIGATION OF CHILD ABUSE AND NEGLECT IN CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** There is established the Legislative Study Commission on the Investigation of Child Abuse and Neglect in Child Care Facilities. The Commission shall consist of 14 members appointed as follows:

(1) The Speaker of the House of Representatives shall appoint seven members as follows: one member of the House of Representatives, one child care provider, one parent of a child in child care, one pediatrician, one representative of a local law enforcement agency, one representative from the Attorney General's office, and one representative from a medical research facility that deals with children's injuries.

(2) The President Pro Tempore of the Senate shall appoint seven members as follows: one member of the Senate, one child care provider, one director of a local department of social services, one representative from the Division of Facility Services who works with the Health Care Personnel Registry, one representative from the Division of Child Development, one representative from the North Carolina Child Care Commission, and one representative from a local child care resource and referral agency.

**SECTION 2.** The Legislative Study Commission on the Investigation of Child Abuse and Neglect in Child Care Facilities shall study the investigation process associated with allegations of child abuse and neglect in child care facilities in order to



**R2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Howard Hunter and Flossie Boyd-NcIntyre** Chairs for the Committee on **CHILDREN, YOUTH AND FAMILIES.**

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☐ Committee Substitute for

H.B. 456      A BILL TO BE ENTITLED AN ACT TO ESTABLISH A LEGISLATIVE  
STUDY COMMISSION ON THE INVESTIGATION OF CHILD ABUSE AND  
NEGLECT IN CHILD CARE FACILITIES

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on  
**Rules, Calendar and Operations of the House..**

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐ Judiciary II

☐ With a favorable report as to committee substitute bill, unfavorable as to original bill and  
recommendation that the committee substitute bill be re-referred to the Committee on  
JUDICIARY II.

☐ With a favorable report as to House committee substitute bill (#      ), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

## VISITOR REGISTRATION SHEET

Children Youth & Families

3/27/2001  
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME \_\_\_\_\_

FIRM OR AGENCY AND ADDRESS

Roz Sawitt

we Child Care Coalition

See Ball

DHHS-DOH

James Fin

DHHS-DCA

Karen Dunn

DHHS - DCID

Shansome

'NCDSS

Went to men

NC DCD

Palm Beach

YA/O/DOA

Quesada

NCCAD

Paula L. Hill

Covenant w/ NC's Children

Sharon Quirk

NC Social Services Consortium

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**        **Tuesday, April 17, 2001**

**TIME:**                **12 noon**

**LOCATION:**          **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**House Bill 375 – Department of Social Services Changes 1**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices on April 11, 2001

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

# **AGENDA**

## **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Rep. Howard J. Hunter, Jr.  
Rep. Flossie Boyd-McIntyre  
Co – Chairs**

**April 17, 2001  
12 noon**

**Introductions and Opening Remarks  
Representative Flossie Boyd-McIntyre**

### **Agenda Item:**

**HB 375 – Department of Social Services Changes 1  
Representative Culpepper, Bill Sponsor**

**Adjournment**

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 17 April 2001**

**12 noon**

**Room 605, Legislative Office Building**

The Committee on Children, Youth and Families met on Tuesday, 17 April 2001, at 12 noon in Room 605 of the Legislative Office Building. House members attending the meeting were Rep. Flossie Boyd-McIntyre, Chair, Martha Alexander, Ruth Easterling, Margaret Jeffus, Linda Johnson, Mary McAllister and Mia Morris. Research staff Erika Churchill and Wendy Graf were also in attendance. The agenda (Exhibit 1) and Visitor Registration Sheet (Exhibit 2) are attached hereto and incorporated into the minutes.

Rep. Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming committee members, staff, pages and visitors. The chair proceeded to acknowledge the Sergeant At Arms staff and Committee Assistant Mia Bailey.

The only item on the agenda was HB 375\*-Proposed Committee Substitute H375-CSLY-1, Department of Social Services Changes 1 (Exhibit 3), sponsored by Representative William Culpepper. Representative Easterling moved for adoption of the Proposed Committee Substitute. The motion passed.

Rep. Culpepper discussed changes made to the original form of House Bill 375. With the help of staff, committee members' questions were satisfied. Representative Mia Morris moved for a favorable report on the Committee Substitute and the motion carried.

With no other business before the committee, Rep. Boyd-McIntyre adjourned the meeting.

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**Representative Flossie Boyd-McIntyre, Co-Chair Presiding**



**Barbara Y. Phillips, Committee Assistant**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Representative Culpepper

**OFFICE:** Room 404

**NOTIFICATION DATE:** 4-10-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will  
meet as follows:**

**DAY & DATE:** 4-17-01

**TIME:** 12 NOON

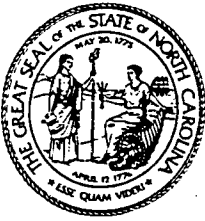
**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**HB 375 - Department of Social Services Change 1**

We would like to have you attend this meeting.

Representative Boyd-McIntyre & Hunter  
Chairman

Barbara Phillips (Committee Assistant)



# HOUSE BILL 375: DSS Changes I-AB

## BILL ANALYSIS

Committee: House Children, Youth &  
Families

Date: March 20, 2001

Version: HB375-CSLY-1v.7

Introduced by: Representative Culpepper

Summary by: R. Erika Churchill  
Committee Counsel

**SUMMARY:** *The bill makes various changes to statutes pertaining to child welfare, effective January 1, 2002, and applies to actions filed on or after that date.*

**BILL ANALYSIS:** The bill would make clarifying and other substantive changes to statutes pertaining to child welfare, in five broad categories. The following is a summary of the changes, organized by broad category and referenced to the bill section.

- **Clarifying Changes – Timing Issues.** This category covers those sections that set a time frame in which a child protective services juvenile court order must be reduced to writing, signed by the judge, and filed with the Clerk of Clerk. Attached is a time line of a child protective services court case, with the additional time constraints for the court orders. (Please see attached.)
- **Clarifying Changes – Other.** This category covers those sections which make clarifying changes to the newly codified Chapter 7B.
  1. **Section 1. Service of Summons.** Current law requires that a summons in an abuse, neglect, or dependency action be served on the parent, guardian, custodian, or caretaker of the juvenile. The abuse/neglect/dependency statute is silent as to whether it is appropriate to serve the parent of the juvenile if the parent is a minor. This section clarifies that the minor parent is to be served with the summons in an abuse/neglect/dependency petition by adding the language shown.
  2. **Sections 8 and 9. Title IV-E Funding.** Federal law requires that in order to receive federal foster care (Title IV-E) funds, there must be a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. Sections 8 and 9 add this language to the statutes setting forth the dispositional alternatives for undisciplined and delinquent juveniles so that if a court orders custody or placement of the juvenile with DSS, then the court must find that it is in the juvenile's best interest not to continue in the juvenile's own home, thereby accessing Title IV-E funds to help support the juvenile.
  3. **Section 10. Access to Juvenile Records.** This section pertains to the maintenance and confidentiality of records in abuse/neglect/dependency cases. This section was in Article 54 of the old juvenile code. When this section was recodified, the provision describing who may have access to a juvenile's records without a court order was left out. Under the added language, the following persons would have access and be able to make copies of a juvenile's record without a court order: the juvenile (even when the juvenile reaches majority), the guardian ad litem, the county DSS, and the Juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian.
- **Changes To The Adoption Statutes.**

# HOUSE BILL 375

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1. Section 11. Transmittal of Adoption Records. This section would change current law so that the clerk does not have to send any documents in an adoption proceeding until after the decree of adoption is entered. Under this provision, the adoption proceeding documents would have to be sent within 10 days after the decree of adoption is entered or 10 days after the final disposition of an appeal. The language would also add that the clerk would maintain the original petition and final decree in the clerk's records.
2. Section 12. Adult Adoption/Notice. Consent to the adoption of an adult is required only of the adult being adopted and the spouse of the petitioner in an adoption by the adult's stepparent. G.S. 48-5-102. In the case of an adult adoption, in addition to the persons who are required to be notified in all adoptions, notice of the petition for adoption must be served on any adult children of the prospective adoptive parent; any parent of the adult adoptee; the spouse of the adult adoptee; any adult child of the adult adoptee. This section would change current law so that notice would no longer have to be served on the parent of the adult adoptee if the court finds good cause not to do so.
3. Section 13. Certificate of Identification. Current vital statistics law generally provides that when an adoption is finalized, the State Registrar prepares a new birth certificate that contains the name of the adoptee and adoptive parents. In the case of an adopted person born in a foreign country and residing in North Carolina at the time of application for a certificate, the State Registrar prepares a certificate of identification. This section would change State law by requiring the State Registrar to prepare a certificate of identification for any adopted person born in a foreign country and readopted in this State upon the receipt of a report of the adoption from the Division of Social Services, regardless of whether the adopted person is residing in this State at the time of the application for the certificate.
4. Section 14. Affidavit of Parentage. Adoption law provides for the execution of an affidavit of parentage to assist the court in determining whether a direct placement is valid and all necessary consents have been obtained. Currently, the parent or guardian who placed the child must execute this affidavit. Sometimes the parent or guardian is not available to execute the affidavit. The change set forth in subsection (a) would permit a knowledgeable individual to provide the information in the affidavit if the parent or guardian is not available. Current law requires that in the case of an agency placement, the agency must obtain the affidavit of parentage. The change set forth in subsection (b) would eliminate this requirement when the agency has obtained legal and physical custody of a child by a court order terminating the parental rights of a parent or guardian. The TPR order contains the information set forth in the affidavit or parentage.
5. Section 15. Revocation of Relinquishment. Current law requires that a relinquishment of a minor for adoption must state that the individual voluntarily consents to the permanent transfer of legal and physical custody of the minor to the adoption agency for the purposes of adoption, and either (a) the placement of the minor for adoption with a prospective adoptive parent selected by the agency, or (b) the placement of the minor for adoption with a prospective adoptive parent selected by the agency and agreed upon by the individual executing the relinquishment. If the relinquishor parent stated that the relinquishment was for an adoption by a specific prospective adoptive parent named or described in the relinquishment and such adoption is not completed, then the relinquishor parent has the ability to revoke the relinquishment. The change in this section provides that the relinquishor parent's time to revoke would be ten days' from the agency's notice, inclusive of weekends and holidays, and must be in writing. The change also provides that if the agency cannot locate the parent and/or if the parent does not revoke the relinquishment within the ten-day



time period, then the agency may place the child for adoption with a prospective adoptive parent selected by the agency.

- **Substantive Changes – Termination of Parental Rights (TPR).** This category covers those sections amending the Termination of Parental Rights (TPR) statutes.
  1. **Section 6. Grounds for Termination.** This section would clarify the grounds upon which the Court may grant a petition for termination of parental rights. Two separate grounds are amended: willful abandonment and violence in the home by the parent. In the case of willful abandonment, the section would clarify that termination may be granted upon a showing that the parent has willfully left the child in foster care or other placement outside the home for a total more than 12 months. Secondly, the section would clarify that the petitioner has the responsibility of proving that the parent has committed murder or voluntary manslaughter of another child of the parent or a child residing in the parent's home; or has aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of the child, another child of the parent or a child residing in the parent's home; or has committed a felony assault that results in serious bodily injury to the child, another child of the parent or a child residing in the parent's home.
  2. **Section 25. Right to Appeal.** This section would amend G.S. 7B-1001 to require any notice of appeal to the Court of Appeals must be in writing. This would make the TPR statutes conform to the Rules of Appellate procedure, which govern appeals to the Court of Appeals.
  3. **Section 26. Appeals; Modification of order after Affirmation.** This section would clarify that the juvenile acting through the juvenile's guardian ad litem, if one has been appointed, may appeal the order of adjudication or the order of disposition, provided the appeal is made in writing within 10 days after entry of the order.
  4. **Section 27. Disposition pending appeal.** This section would clarify that the judge has the authority, but is not required, to place the juvenile with the parent or guardian of the juvenile pending the disposition of an appeal.
  5. **Section 28. Issuance of Summons.** This section would clarify that the juvenile, no matter what age, is served with the summons and petition in a TPR action. Additionally, the section would require that the papers directed to the juvenile must be served upon the juvenile's guardian ad litem, if one has been appointed.
- **Substantive Changes – Other.** This category covers those sections amending child welfare statutes other than the TPR statutes.
  1. **Section 2. Right to Counsel.** Current law provides that a parent has a right to counsel in actions where a juvenile is alleged to have been abused, neglected, or dependent. This section changes current law by adding that a guardian ad litem will be appointed to represent a parent if the parent is a minor or where it is alleged that the juvenile is a dependent juvenile because the parent is incapacitated because of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition.
  2. **Section 3. Court Authority over Parents.** Current law provides that when a court has adjudicated a juvenile as abused, neglected, or dependent, the court has certain authority over the parents of that juvenile. This section changes current law by expanding the authority of the court over the parents to permit the court to order the parents to attend and participate in parental responsibility classes, provide transportation to the juvenile to keep appointments for treatments, and to take appropriate steps to remedy conditions in

# HOUSE BILL 375

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the home that led to the juvenile's adjudication. Currently, failure of a parent to comply with a court's order may result in a proceeding for civil contempt. This section changes current law by stating that the parent may be found in civil or criminal contempt and by specifically setting forth the procedure governing the contempt proceedings.

3. Section 4. Visitation Plan. Current law provides that a dispositional order in a juvenile abuse/neglect/dependency case shall provide for appropriate visitation as may be in the juvenile's best interest. In the case of a juvenile placed in DSS custody, the court may order the Director of DSS to facilitate a visitation plan expressly approved by the court. The change in law proposed in this section would make it clear that if the director later makes a good faith determination that the visitation plan is not in the juvenile's best interest (because, for example, the juvenile is being abused during the visitation), then the director can temporarily suspend all or part of the visitation plan until further review by the court.
4. Section 5. Permanency Planning. Current law provides for permanency planning for juveniles who have been removed as a result of abuse, neglect or dependency. If a juvenile has been in DSS custody and has been placed outside the home for 15 of the most recent 22 months, the court must order the director of DSS to initiate a proceeding to terminate parental rights. This section would change current law by reducing the time period from 15 to 12 months and by requiring the director of DSS automatically to initiate TPR proceedings.
5. Section 21. Voluntary Placement Agreements (VPA). Currently, when juveniles are voluntarily placed in foster care, the court reviews the initial placement within 180 days after the placement and thereafter reviews the placement whenever the court finds it to be appropriate. Juveniles placed voluntarily in foster care may not remain in foster care for more than 12 months without the filing of a petition alleging abuse, neglect, or dependency. The section would change current law by shortening the time period within which the initial review hearing is to be held to 90 days after placement and mandating that an additional review hearing be held at least every 90 days thereafter. Further, this section changes current law by shortening the time period a juvenile may remain in foster care under a voluntary placement without filing a petition to 6 months.
6. Section 24. Inquiry as to Paternity. Current law provides that a juvenile may not be held under a nonsecure custody order for more than seven days without a hearing on the merits or a hearing to determine the need for continued custody. The statute sets forth the specific inquiries the court must make during the hearing. This section changes current law by adding a requirement that the court inquire as to whether paternity is at issue and if so, what efforts are being undertaken to establish paternity.

**EFFECTIVE DATE:** The bill would become effective January 1, 2002, and apply to actions commenced on or after that date.

Dianna Jessup contributed to this summary.  
HB375-CSLY-1-v.7

**R2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Howard Hunter and Flossie Boyd-McIntyre** Chairs for the  
Committee on **CHILDREN, YOUTH AND FAMILIES.**

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- ☐ Committee Substitute for  
H.B. 375      A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING AND  
OTHER CHANGES TO THE GENERAL STATUTES PERTAINING TO CHILD  
WELFARE
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐ Judiciary II
- ☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.
- ☐ With a favorable report as to House committee substitute bill (#      ), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

FOR JOURNAL USE ONLY

\_\_\_\_ Pursuant to Rule 36(b), the bill is placed on the Calendar of \_\_\_\_\_.

\_\_\_\_ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_ Pursuant to Rule 36(b), the (House)committee substitute bill (No. \_\_\_\_)/resolution is placed on the Calendar of \_\_\_\_\_. (The original bill) (House Committee Substitute Bill No. \_\_\_\_)/resolution is placed on the Unfavorable Calendar.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, (the rules are suspended) (Rule \_\_\_\_ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ On motion of Rep. \_\_\_\_\_, Committee Amendment No.(s) \_\_\_\_\_ is/are adopted (by EV \_\_\_\_\_).

\_\_\_\_ Rep. \_\_\_\_\_ offers Amendment No. \_\_\_\_ which (is adopted.) (fails of adoption.) (by EV \_\_\_\_\_) ( ) This amendment changes the title.

\_\_\_\_ The bill/resolution (, as amended,) passes its second reading (by following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and (remains on the Calendar,) (and there being no objection is read a third time).

\_\_\_\_ The bill/resolution (, as amended,) passes its third reading (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and is ordered  
\_\_\_\_ sent to the Senate.  
\_\_\_\_ without engrossment. \_\_\_\_ by Special message.  
\_\_\_\_ sent to the Senate for concurrence in  
\_\_\_\_ House amendment (s).  
\_\_\_\_ House committee substitute.  
\_\_\_\_ enrolled.

\_\_\_\_ On motion of Rep. \_\_\_\_\_, the House concurs in the (material) Senate  
\_\_\_\_ (by the following vote, \_\_\_\_\_ RC) (, by EV \_\_\_\_\_,) and  
the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 375\*  
Committee Substitute Favorable 4/18/01  
Senate Children & Human Resources Committee Substitute Adopted 5/17/01  
Fourth Edition Engrossed 5/29/01

Short Title: DSS Changes 1-AB.

(Public)

Sponsors:

Referred to:

March 1, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFYING AND OTHER CHANGES TO THE GENERAL  
3 STATUTES PERTAINING TO CHILD WELFARE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7B-406(a) reads as rewritten:

6 "(a) Immediately after a petition has been filed alleging that a juvenile is abused,  
7 neglected, or dependent, the clerk shall issue a summons to the parent, guardian,  
8 custodian, or caretaker requiring them to appear for a hearing at the time and place  
9 stated in the summons. A copy of the petition shall be attached to each summons.  
10 Service of the summons shall be completed as provided in G.S. 7B-407, but the parent  
11 of the juvenile shall not be deemed to be under a disability even though the parent is a  
12 minor."

13 SECTION 2. G.S. 7B-602 reads as rewritten:

14 "§ 7B-602. (Effective July 1, 2001) Parent's right to ~~counsel~~counsel; guardian ad  
15 litem.

16 (a) In cases where the juvenile petition alleges that a juvenile is abused,  
17 neglected, or dependent, the parent has the right to counsel and to appointed counsel in  
18 cases of indigency unless that person waives the right.

19 (b) In addition to the right to appointed counsel set forth above, a guardian ad  
20 litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to  
21 represent a parent in the following cases:

- 22 (1) Where it is alleged that the juvenile is a dependent juvenile within the  
23 meaning of G.S. 7B-101 in that the parent is incapable as the result of  
24 substance abuse, mental retardation, mental illness, organic brain  
25 syndrome, or any other similar cause or condition of providing for the  
26 proper care and supervision of the juvenile; or  
27 (2) Where the parent is under the age of 18 years."

## SECTION 3. G.S. 7B-904 reads as rewritten:

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

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

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

(c) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile who has been adjudicated abused, neglected, or dependent,~~ the court may determine whether the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care. If the court finds that the best interests of the juvenile require the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo treatment, it may order that individual to comply with a plan of treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon that individual's compliance with the plan of treatment. The court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon compliance with a plan of treatment, the court may charge the cost of the treatment to the county of the juvenile's residence if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment ordered pursuant to this subsection, the court may order that individual to

1 receive treatment currently available from the area mental health program that serves  
2 the parent's catchment area.

3 (d) ~~Whenever~~ At the dispositional hearing or a subsequent hearing, when legal  
4 custody of a juvenile is vested in someone other than the juvenile's parent, after due  
5 notice to the parent and after a hearing, if the court finds that the parent is able to do so,  
6 the court may order that the parent pay a reasonable sum that will cover, in whole or in  
7 part, the support of the juvenile after the order is entered. If the court requires the  
8 payment of child support, the amount of the payments shall be determined as provided  
9 in G.S. 50-13.4(c). If the court places a juvenile in the custody of a county department  
10 of social services and if the court finds that the parent is unable to pay the cost of the  
11 support required by the juvenile, the cost shall be paid by the county department of  
12 social services in whose custody the juvenile is placed, provided the juvenile is not  
13 receiving care in an institution owned or operated by the State or federal government or  
14 any subdivision thereof.

15 (d1) At the dispositional hearing or a subsequent hearing, the court may order the  
16 parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to  
17 G.S. 7B-407 to do any of the following:

18 (1) Attend and participate in parental responsibility classes if those classes  
19 are available in the judicial district in which the parent, guardian,  
20 custodian, or caretaker resides.

21 (2) Provide, to the extent that person is able to do so, transportation for the  
22 juvenile to keep appointments for medical, psychiatric, psychological,  
23 or other treatment ordered by the court if the juvenile remains in or is  
24 returned to the home.

25 (3) Take appropriate steps to remedy conditions in the home that led to or  
26 contributed to the juvenile's adjudication or to the court's decision to  
27 remove custody of the juvenile from the parent, guardian, custodian, or  
28 caretaker.

29 (e) ~~Failure of a parent who is personally served to participate in or comply with~~  
30 ~~this section may result in a proceeding for civil contempt.~~ Upon motion of a party or  
31 upon the court's own motion, the court may issue an order directing the parent,  
32 guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S.  
33 7B-407 to appear and show cause why the parent, guardian, custodian, or caretaker  
34 should not be found or held in civil or criminal contempt for willfully failing to comply  
35 with an order of the court. Chapter 5A of the General Statutes shall govern contempt  
36 proceedings initiated pursuant to this section."

37 **SECTION 4.** G.S. 7B-905(c) reads as rewritten:

38 "(c) Any dispositional order shall comply with the requirements of G.S. 7B-507.  
39 Any dispositional order under which a juvenile is removed from the custody of a parent,  
40 guardian, custodian, or caretaker, or under which the juvenile's placement is continued  
41 outside the home shall provide for appropriate visitation as may be in the best interests  
42 of the juvenile and consistent with the juvenile's health and safety. If the juvenile is  
43 placed in the custody or placement responsibility of a county department of social

1 services, the court may order the director to arrange, facilitate, and supervise a visitation  
2 plan expressly approved by the court. If the director subsequently makes a good faith  
3 determination that the visitation plan may not be in the best interests of the juvenile or  
4 consistent with the juvenile's health and safety, the director may temporarily suspend all  
5 or part of the visitation plan. The director shall not be subjected to any motion to show  
6 cause for this suspension, but shall expeditiously file a motion for review."

7 **SECTION 5.** G.S. 7B-907(d) reads as rewritten:

8 "(d) In the case of a juvenile who is in the custody or placement responsibility of a  
9 county department of social services, and has been in placement outside the home for  
10 ~~45~~12 of the most recent 22 months; or a court of competent jurisdiction has determined  
11 that the parent has abandoned the child; or has committed murder or voluntary  
12 manslaughter of another child of the parent; or has aided, abetted, attempted, conspired,  
13 or solicited to commit murder or voluntary manslaughter of the child or another child of  
14 the parent, ~~the court shall order~~ the director of the department of social services ~~to~~shall  
15 initiate a proceeding to terminate the parental rights of the parent unless the court finds:

- 16 (1) The permanent plan for the juvenile is guardianship or custody with a  
17 relative or some other suitable person;
- 18 (2) The court makes specific findings why the filing of a petition for  
19 termination of parental rights is not in the best interests of the child; or
- 20 (3) The department of social services has not provided the juvenile's  
21 family with such services as the department deems necessary, when  
22 reasonable efforts are still required to enable the juvenile's return to a  
23 safe home."

24 **SECTION 6.** G.S. 7B-1111(a) reads as rewritten:

25 "(a) The court may terminate the parental rights upon a finding of one or more of  
26 the following:

- 27 (1) The parent has abused or neglected the juvenile. The juvenile shall be  
28 deemed to be abused or neglected if the court finds the juvenile to be  
29 an abused juvenile within the meaning of G.S. 7B-101 or a neglected  
30 juvenile within the meaning of G.S. 7B-101.
- 31 (2) The parent has willfully left the juvenile in foster care or placement  
32 outside the home for more than 12 months without showing to the  
33 satisfaction of the court that reasonable progress under the  
34 circumstances has been made ~~within 12 months~~ in correcting those  
35 conditions which led to the removal of the juvenile. Provided,  
36 however, that no parental rights shall be terminated for the sole reason  
37 that the parents are unable to care for the juvenile on account of their  
38 poverty.
- 39 (3) The juvenile has been placed in the custody of a county department of  
40 social services, a licensed child-placing agency, a child-caring  
41 institution, or a foster home, and the parent, for a continuous period of  
42 six months next preceding the filing of the petition or motion, has  
43 willfully failed for such period to pay a reasonable portion of the cost



- 1 of care for the juvenile although physically and financially able to do  
2 so.
- 3 (4) One parent has been awarded custody of the juvenile by judicial decree  
4 or has custody by agreement of the parents, and the other parent whose  
5 parental rights are sought to be terminated has for a period of one year  
6 or more next preceding the filing of the petition or motion willfully  
7 failed without justification to pay for the care, support, and education  
8 of the juvenile, as required by said decree or custody agreement.
- 9 (5) The father of a juvenile born out of wedlock has not, prior to the filing  
10 of a petition or motion to terminate parental rights:
- 11 a. Established paternity judicially or by affidavit which has been  
12 filed in a central registry maintained by the Department of  
13 Health and Human Services; provided, the court shall inquire of  
14 the Department of Health and Human Services as to whether  
15 such an affidavit has been so filed and shall incorporate into the  
16 case record the Department's certified reply; or
- 17 b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or  
18 filed a petition for this specific purpose; or
- 19 c. Legitimated the juvenile by marriage to the mother of the  
20 juvenile; or
- 21 d. Provided substantial financial support or consistent care with  
22 respect to the juvenile and mother.
- 23 (6) That the parent is incapable of providing for the proper care and  
24 supervision of the juvenile, such that the juvenile is a dependent  
25 juvenile within the meaning of G.S. 7B-101, and that there is a  
26 reasonable probability that such incapability will continue for the  
27 foreseeable future. Incapability under this subdivision may be the  
28 result of substance abuse, mental retardation, mental illness, organic  
29 brain syndrome, or any other similar cause or condition.
- 30 (7) The parent has willfully abandoned the juvenile for at least six  
31 consecutive months immediately preceding the filing of the petition or  
32 motion.
- 33 (8) The parent has committed murder or voluntary manslaughter of  
34 another child of the parent or other child residing in the home; has  
35 aided, abetted, attempted, conspired, or solicited to commit murder or  
36 voluntary manslaughter of the child, another child of the parent, or  
37 other child residing in the home; or has committed a felony assault that  
38 results in serious bodily injury to the child, another child of the parent,  
39 or other child residing in the home. The petitioner has the burden of  
40 proving any of these offenses in the termination of parental rights  
41 hearing by (i) proving the elements of the offense or (ii) offering proof  
42 that a court of competent jurisdiction has convicted the parent of the

1 offense, whether or not the conviction was by way of a jury verdict or  
2 any kind of plea.

- 3 (9) The parental rights of the parent with respect to another child of the  
4 parent have been terminated involuntarily by a court of competent  
5 jurisdiction and the parent lacks the ability or willingness to establish a  
6 safe home."

7 **SECTION 7.** G.S. 7B-1109(a) reads as rewritten:

8 "(a) The hearing on the termination of parental rights shall be conducted by the  
9 court sitting without a jury and shall be held in the district at such time and place as the  
10 chief district court judge shall designate, but no later than 90 days from the filing of the  
11 petition or motion unless the judge pursuant to subsection (d) of this section orders that  
12 it be held at a later time. Reporting of the hearing shall be as provided by G.S. 7A-198  
13 for reporting civil trials."

14 **SECTION 8.** G.S. 7B-2503(1) reads as rewritten:

15 "(1) In the case of any juvenile who needs more adequate care or  
16 supervision or who needs placement, the judge may:

- 17 a. Require that the juvenile be supervised in the juvenile's own  
18 home by a department of social services in the juvenile's county  
19 of residence, a court counselor, or other personnel as may be  
20 available to the court, subject to conditions applicable to the  
21 parent, guardian, or custodian or the juvenile as the judge may  
22 specify; or  
23 b. Place the juvenile in the custody of a parent, guardian,  
24 custodian, relative, private agency offering placement services,  
25 or some other suitable person; or  
26 c. Place the juvenile in the custody of a department of social  
27 services in the county of the juvenile's residence, or in the case  
28 of a juvenile who has legal residence outside the State, in the  
29 physical custody of a department of social services in the  
30 county where the juvenile is found so that agency may return  
31 the juvenile to the responsible authorities in the juvenile's home  
32 state. An order placing a juvenile in the custody or placement  
33 responsibility of a county department of social services shall  
34 contain a finding that the juvenile's continuation in the  
35 juvenile's own home would be contrary to the juvenile's best  
36 interest. This placement shall be reviewed in accordance with  
37 G.S. 7B-906. The director may, unless otherwise ordered by the  
38 judge, arrange for, provide, or consent to, needed routine or  
39 emergency medical or surgical care or treatment. In the case  
40 where the parent is unknown, unavailable, or unable to act on  
41 behalf of the juvenile or juveniles, the director may, unless  
42 otherwise ordered by the judge, arrange for, provide or consent  
43 to any psychiatric, psychological, educational, or other remedial

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evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

**SECTION 9.** G.S. 7B-2506(1) reads as rewritten:

- "(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
- a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on

1                   behalf of the juvenile or juveniles, the director may, unless  
2 otherwise ordered by the judge, arrange for, provide, or consent  
3 to any psychiatric, psychological, educational, or other remedial  
4 evaluations or treatment for the juvenile placed by a judge or  
5 his designee in the custody or physical custody of a county  
6 department of social services under the authority of this or any  
7 other Chapter of the General Statutes. Prior to exercising this  
8 authority, the director shall make reasonable efforts to obtain  
9 consent from a parent, guardian, or custodian of the affected  
10 juvenile. If the director cannot obtain consent, the director shall  
11 promptly notify the parent, guardian, or custodian that care or  
12 treatment has been provided and shall give the parent, guardian,  
13 or custodian frequent status reports on the circumstances of the  
14 juvenile. Upon request of a parent, guardian, or custodian of the  
15 affected juvenile, the results or records of the aforementioned  
16 evaluations, findings, or treatment shall be made available to  
17 the parent, guardian, or custodian by the director unless  
18 prohibited by G.S. 122C-53(d)."

19                   **SECTION 10.** G.S. 7B-2901(a) reads as rewritten:

20                   "(a) The clerk shall maintain a complete record of all juvenile cases filed in the  
21 clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from  
22 public inspection and, except as provided in this subsection, may be examined only by  
23 order of the court. The record shall include the summons, petition, custody order, court  
24 order, written motions, the electronic or mechanical recording of the hearing, and other  
25 papers filed in the proceeding. The recording of the hearing shall be reduced to a written  
26 transcript only when notice of appeal has been timely given. After the time for appeal  
27 has expired with no appeal having been filed, the recording of the hearing may be  
28 erased or destroyed upon the written order of the court.

29                   The following persons may examine the juvenile's record maintained pursuant to  
30 this subsection and obtain copies of written parts of the record without an order of the  
31 court:

- 32                   (1) The person named in the petition as the juvenile;  
33                   (2) The guardian ad litem;  
34                   (3) The county department of social services; and  
35                   (4) The juvenile's parent, guardian, or custodian, or the attorney for the  
36 juvenile or the juvenile's parent, guardian, or custodian."

37                   **SECTION 11.** G.S. 48-9-102(d) reads as rewritten:

38                   "~~(d) Records must be sent by the clerk of superior court to the Division in the~~  
39 ~~following order:~~

- 40                   ~~(1) Within 10 days after the petition is filed with the clerk of the superior~~  
41 ~~court, a copy of the petition giving the date of the filing of the original~~  
42 ~~petition and the original of each consent and relinquishment must be~~  
43 ~~filed by the clerk with the Division.~~

(2) ~~Within 10 days after the decree of adoption is entered, the clerk must file with the Division the additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered, and a copy of the final order.~~

(d) All records filed in connection with an adoption, including a copy of the petition giving the date of the filing of the original petition, the original of each consent and relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered and a copy of the final decree, shall be sent by the clerk of superior court to the Division within 10 days after the decree of adoption is entered or 10 days following the final disposition of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree shall be retained by the clerk."

SECTION 12. G.S. 48-2-401(d) reads as rewritten:

"(d) In the adoption of an adult, the petitioner shall also serve notice of the filing on any adult children of the prospective adoptive parent and any parent, spouse, or adult child of the adoptee who are listed in the petition to ~~adopt~~ adopt; provided the court for cause may waive the requirement of notice to a parent of an adult adoptee."

SECTION 13. G.S. 130A-108 reads as rewritten:

"§ 130A-108. **Certificate of identification for individual of foreign birth.**

(a) In the case of an adopted individual born in a foreign country and residing in this State at the time of application, the State Registrar shall, upon the presentation of a certified copy of the original birth certificate from the country of birth and a certified copy of the final order of adoption signed by the clerk of court or other appropriate official, prepare a certificate of identification for the individual. The certificate shall contain the same information required by G.S. 48-9-107(a) for individuals adopted in this State, except that the country of birth shall be specified in lieu of the state of birth.

(b) In the case of an adopted individual born in a foreign country and readopted in this State, the State Registrar shall, upon receipt of a report of that adoption from the Division of Social Services pursuant to G.S. 48-9-102(f), prepare a certificate of identification for that individual. The certificate shall contain the same information required by G.S. 48-9-107(a) for individuals adopted in this State, except the country of birth shall be specified in lieu of the state of birth."

SECTION 14. G.S. 48-3-206 reads as rewritten:

"§ 48-3-206. **Affidavit of parentage.**

(a) To assist the court in determining that a direct placement was valid and all necessary consents have been obtained, the parent or guardian who placed the minor shall execute an affidavit setting out names, last known addresses, and marital status of the minor's parents or possible parents. If the placing parent or guardian is unavailable to execute the affidavit, the affidavit may be prepared by a knowledgeable individual who shall sign the affidavit and indicate the source of the individual's knowledge.

(b) In an agency placement, the agency shall obtain from at least one individual who relinquishes a minor to the agency an affidavit setting out the information required in subsection (a) of this section. This affidavit is not necessary when the agency

1 acquires legal and physical custody of a minor for purposes of adoptive placement by a  
2 court order terminating the parental rights of a parent or guardian."

3 **SECTION 15. G.S. 48-3-704 reads as rewritten:**

4 **"§ 48-3-704. Content of relinquishment; optional provisions.**

5 In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment  
6 may also state that the relinquishment may be revoked upon notice by the agency that  
7 an adoption by a specific prospective adoptive parent, named or described in the  
8 relinquishment is not completed. In this event the parent's time to revoke a  
9 relinquishment is 10 days, inclusive of weekends and holidays, from the date the parent  
10 receives such notice from the agency. The revocation shall be in writing and delivered  
11 in a manner specified in G.S. 48-3-706(a) for revocation of relinquishments. An agency,  
12 which after the exercise of due diligence cannot personally locate the parent entitled to  
13 this notice, may deposit a copy of the notice in the United States mail, return receipt  
14 requested, addressed to the address of the parent given in the relinquishment, and the  
15 date of receipt by the parent is deemed to be the date of delivery or last attempted  
16 delivery. If a parent does not revoke the relinquishment in the time and manner  
17 provided in this section, the relinquishment is deemed a general relinquishment to the  
18 agency, and the agency may place the child for adoption with a prospective adoptive  
19 parent selected by the agency."

20 **SECTION 16. G.S. 7B-506(d) reads as rewritten:**

21 "(d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and  
22 should continue in custody, the court shall issue an order to that effect. The order shall  
23 be in writing with appropriate findings of ~~fact~~ fact and signed and entered within 30  
24 days of the completion of the hearing. The findings of fact shall include the evidence  
25 relied upon in reaching the decision and the purposes which continued custody is to  
26 achieve."

27 **SECTION 17. G.S. 7B-807 reads as rewritten:**

28 **"§ 7B-807. Adjudication.**

29 (a) If the court finds that the allegations in the petition have been proven by clear  
30 and convincing evidence, the court shall so state. If the court finds that the allegations  
31 have not been proven, the court shall dismiss the petition with prejudice, and if the  
32 juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian,  
33 custodian, or caretaker.

34 (b) The adjudicatory order shall be in writing and shall contain appropriate  
35 findings of fact and conclusions of law. The order shall be reduced to writing, signed,  
36 and entered no later than 30 days following the completion of the adjudicatory hearing."

37 **SECTION 18. G.S. 7B-905(a) reads as rewritten:**

38 (a) The dispositional order shall be in ~~writing~~ writing, signed, and entered no later  
39 than 30 days from the completion of the hearing, and shall contain appropriate findings  
40 of fact and conclusions of law. The court shall state with particularity, both orally and in  
41 the written order of disposition, the precise terms of the disposition including the kind,  
42 duration, and the person who is responsible for carrying out the disposition and the  
43 person or agency in whom custody is vested."

1           **SECTION 19.** G.S. 7B-906(d) reads as rewritten:

2           "(d) The court, after making findings of fact, may appoint a guardian of the person  
3 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by  
4 G.S. 7B-903, including the authority to place the juvenile in the custody of either parent  
5 or any relative found by the court to be suitable and found by the court to be in the best  
6 interests of the juvenile. The court may enter an order continuing the placement under  
7 review or providing for a different placement as is deemed to be in the best interests of  
8 the juvenile. The order must be reduced to writing, signed, and entered within 30 days  
9 of the completion of the hearing. If at any time custody is restored to a parent, guardian,  
10 custodian, or caretaker the court shall be relieved of the duty to conduct periodic  
11 judicial reviews of the placement."

12           **SECTION 20.** G.S. 7B-907(c) reads as rewritten:

13           "(c) At the conclusion of the hearing, the judge shall make specific findings as to  
14 the best plan of care to achieve a safe, permanent home for the juvenile within a  
15 reasonable period of time. The judge may appoint a guardian of the person for the  
16 juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903  
17 including the authority to place the child in the custody of either parent or any relative  
18 found by the court to be suitable and found by the court to be in the best interest of the  
19 juvenile. If the juvenile is not returned home, the court shall enter an order consistent  
20 with its findings that directs the department of social services to make reasonable efforts  
21 to place the juvenile in a timely manner in accordance with the permanent plan, to  
22 complete whatever steps are necessary to finalize the permanent placement of the  
23 juvenile, and to document such steps in the juvenile's case plan. Any order shall be  
24 reduced to writing, signed, and entered no later than 30 days following the completion  
25 of the hearing. If at any time custody is restored to a parent, or findings are made in  
26 accordance with G.S. 7B-906(b), the court shall be relieved of the duty to conduct  
27 periodic judicial reviews of the placement.

28           If the court continues the juvenile's placement in the custody or placement  
29 responsibility of a county department of social services, the provisions of G.S. 7B-507  
30 shall apply to any order entered under this section."

31           **SECTION 21.** G.S. 7B-910(c) reads as rewritten:

32           "(c) An initial review hearing shall be held not more than ~~180~~90 days after the  
33 juvenile's placement and shall be calendared by the clerk for hearing within such period  
34 upon timely request by the director of social services. ~~Additional~~An additional review  
35 ~~hearings-hearing~~ shall be held 90 days thereafter and any review hearings at such times  
36 as the court shall deem appropriate and shall direct, either upon its own motion or upon  
37 written request of the parents, guardian, foster parents, or director of social services. A  
38 juvenile placed under a voluntary agreement between the juvenile's parent or guardian  
39 and the county department of social services shall not remain in placement more than  
40 ~~12~~six months without the filing of a petition alleging abuse, neglect, or dependency."

41           **SECTION 22.** G.S. 7B-1109(e) reads as rewritten:

42           "(e) The court shall take evidence, find the facts, and shall adjudicate the  
43 existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which

1 authorize the termination of parental rights of the respondent. The adjudicatory order  
2 shall be reduced to writing, signed, and entered no later than 30 days following the  
3 completion of the termination of parental rights hearing."

4 SECTION 23. G.S. 7B-1110(a) reads as rewritten:

5 "(a) Should the court determine that any one or more of the conditions authorizing  
6 a termination of the parental rights of a parent exist, the court shall issue an order  
7 terminating the parental rights of such parent with respect to the juvenile unless the  
8 court shall further determine that the best interests of the juvenile require that the  
9 parental rights of the parent not be terminated. Any order shall be reduced to writing,  
10 signed, and entered no later than 30 days following the completion of the termination of  
11 parental rights hearing."

12 SECTION 24. G.S. 7B-506(h) reads as rewritten:

13 "(h) At each hearing to determine the need for continued custody, the court shall:

14 (1) Inquire as to the identity and location of any missing ~~parent;parent and~~  
15 as to whether paternity is at issue. The court shall include findings as  
16 to the efforts undertaken to locate the missing parent and to serve that  
17 ~~parent;parent, as well as efforts undertaken to establish paternity when~~  
18 paternity is an issue. The order may provide for specific efforts aimed  
19 at determining the identity and location of any missing ~~parent;parent,~~  
20 as well as specific efforts aimed at establishing paternity.

21 (2) Inquire as to whether a relative of the juvenile is willing and able to  
22 provide proper care and supervision of the juvenile in a safe home. If  
23 the court finds that the relative is willing and able to provide proper  
24 care and supervision in a safe home, then the court shall order  
25 temporary placement of the juvenile with the relative unless the court  
26 finds that placement with the relative would be contrary to the best  
27 interests of the juvenile. In placing a juvenile in nonsecure custody  
28 under this section, the court shall consider the Indian Child Welfare  
29 Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and  
30 the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub.  
31 L. No. 103-382, 108 Stat. 4056, as amended, as they may apply.  
32 Placement of a juvenile with a relative outside of this State must be in  
33 accordance with the Interstate Compact on the Placement of Children  
34 set forth in Article 38 of this Chapter; and

35 (3) Inquire as to whether there are other juveniles remaining in the home  
36 from which the juvenile was removed and, if there are, inquire as to  
37 the specific findings of the investigation conducted under G.S. 7B-302  
38 and any actions taken or services provided by the director for the  
39 protection of the other juveniles."

40 SECTION 25. G.S. 7B-1001 reads as rewritten:

41 "§ 7B-1001. Right to appeal.

42 Upon motion of a proper party as defined in G.S. 7B-1002, review of any final order  
43 of the court in a juvenile matter under this Article shall be before the Court of Appeals.



1 Notice of appeal shall be given ~~in open court at the time of the hearing or~~ in writing  
2 within 10 days after entry of the order. However, if no disposition is made within 60  
3 days after entry of the order, written notice of appeal may be given within 70 days after  
4 such entry. A final order shall include:

- 5 (1) Any order finding absence of jurisdiction;
- 6 (2) Any order which in effect determines the action and prevents a  
7 judgment from which appeal might be taken;
- 8 (3) Any order of disposition after an adjudication that a juvenile is abused,  
9 neglected, or dependent; or
- 10 (4) Any order modifying custodial rights."

11 **SECTION 26.** G.S. 7B-1113 reads as rewritten:

12 **"§ 7B-1113. Appeals; modification of order after affirmation.**

13 Any ~~juvenile, juvenile, juvenile~~ acting through the juvenile's guardian ad litem if one  
14 is appointed, parent, guardian, custodian, or agency who is a party to a proceeding under  
15 this Article may appeal from an adjudication or any order of disposition to the Court of  
16 Appeals, provided that notice of appeal is given ~~in open court at the time of the hearing~~  
17 or in writing within 10 days after entry of the order. Entry of an order shall be treated in  
18 the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina  
19 Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a  
20 temporary order affecting the custody or placement of the juvenile as the court finds to  
21 be in the best interests of the juvenile or the best interests of the State. Upon the  
22 affirmation of the order of adjudication or disposition of the court in a juvenile case by  
23 the Court of Appeals, or by the Supreme Court in the event of an appeal, the court shall  
24 have authority to modify or alter its original order of adjudication or disposition as the  
25 court finds to be in the best interests of the juvenile to reflect any adjustment made by  
26 the juvenile or change in circumstances during the period of time the case on appeal was  
27 pending, provided that if the modifying order be entered ex parte, the court shall give  
28 notice to interested parties to show cause, if any there be, within 10 days thereafter, as  
29 to why the modifying order should be vacated or altered."

30 **SECTION 27.** G.S. 7B-1003 reads as rewritten:

31 **"§ 7B-1003. Disposition pending appeal.**

32 Pending disposition of an appeal, the return of the juvenile to the custody of the  
33 parent or guardian of the juvenile, with or without conditions, ~~should~~ may issue in every  
34 case unless the court orders otherwise. When the court has found that a juvenile has  
35 suffered physical abuse and that the individual responsible for the abuse has a history of  
36 violent behavior, the court shall consider the opinion of the mental health professional  
37 who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the  
38 custody of that individual. For compelling reasons which must be stated in writing, the  
39 court may enter a temporary order affecting the custody or placement of the juvenile as  
40 the court finds to be in the best interests of the juvenile or the State. The provisions of  
41 subsections (b), (c), and (d) of G.S. 7B-905 shall apply to any order entered under this  
42 section which provides for the placement or continued placement of a juvenile in foster  
43 care."

1       **SECTION 28.** G.S. 7B-1106(a) reads as rewritten:

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

- 5           (1) The parents of the juvenile;  
6           (2) Any person who has been judicially appointed as guardian of the  
7                person of the juvenile;  
8           (3) The custodian of the juvenile appointed by a court of competent  
9                jurisdiction;  
10          (4) Any county department of social services or licensed child-placing  
11                agency to whom a juvenile has been released by one parent pursuant to  
12                Part 7 of Article 3 of Chapter 48 of the General Statutes or any county  
13                department of social services to whom placement responsibility for the  
14                child has been given by a court of competent jurisdiction; and  
15          (5) ~~The juvenile, if the juvenile is 12 years of age or older at the time the~~  
16                ~~petition is filed.~~ juvenile.

17        Provided, no summons need be directed to or served upon any parent who, under  
18 Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county  
19 department of social services or licensed child-placing agency nor to any parent who  
20 has consented to the adoption of the juvenile by the petitioner. The summons shall  
21 notify the respondents to file a written answer within 30 days after service of the  
22 summons and petition. Except that the summons and other pleadings or papers directed  
23 to the juvenile shall be served upon the juvenile's guardian ad litem if one has been  
24 appointed. ~~Service~~ Service of the summons shall be completed as provided under the  
25 procedures established by ~~G.S. 1A-1, Rule 4(j); but G.S. 1A-1, Rule 4(j).~~ But the parent  
26 of the juvenile shall not be deemed to be under a disability even though the parent is a  
27 minor."

28       **SECTION 29.** This act becomes effective January 1, 2002, and applies to  
29 actions filed on or after that date.

**REVISED NOTICE - Please note the addition of HB 1317**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**        **Tuesday, April 24, 2001**

**TIME:**                **12 noon**

**LOCATION:**          **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**House Bill 993 – TANF Cash Assistance/Waive Waiting Period.**

**Bill Sponsor – Representative Earle**

**House Bill 1317 – Restrictive Covenants – Child Care**

**Bill Sponsor- Representative Easterling**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices  
on April 18, 2001

\_\_\_\_ Principal Clerk

\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

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**TIME:**              **12 noon**

**LOCATION:**         **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**House Bill 993 – TANF Cash Assistance/Waive Waiting Period.**  
**Bill Sponsors – Representatives, Earle, Wainwright and Luebke**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices  
on April 18, 2001

\_\_\_ Principal Clerk  
\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Representative Easterling

**OFFICE:** Room 631 LOB

**NOTIFICATION DATE:** 4-18-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will  
meet as follows:**

**DAY & DATE:** 4-24-01

**TIME:** 12 NOON

**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**HB 1317 - Restrictive Covenants - Child Care**

We would like to have you attend this meeting.

Representative Boyd-McIntyre & Hunter  
Chairman

Barbara Phillips (Committee Assistant)

## **AGENDA**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**.Rep. Flossie Boyd-McIntyre**

**Rep. Howard J. Hunter, Jr**

**Co – Chairs**

**April 24, 2001**

**12:30 pm**

**Introductions and Opening Remarks**

**Representative Flossie Boyd-McIntyre**

#### **Agenda Item:**

**HB 1317 – Restrictive Covenants – Child Care**

**Representative Easterling, Bill Sponsor**

**HB 993– TANF Cash Assistance/Waive Waiting Period**

**Representative Earle, Bill Sponsor**

**Adjournment**

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 24 APRIL 2001**

**12Noon**

**Room 423, Legislative Office Building**

The Committee on Children, Youth and Families met on Tuesday, 24 April 2001 at 12:00 p.m., in Room 423 of the Legislative Office Building. Members attending the meeting were Representatives Martha Alexander, Jeff Barnhart, Ruth Easterling, Maggie Jeffus, Linda Johnson, Mary Mc Allister, Frank Mitchell, Edith Warren, Art Pope, Flossie Boyd-McIntyre and Howard Hunter. Research staff members present were Erika Churchill, Canaan Huie and Wendy Graf. The agenda (*Exhibit 1*) and Visitor Registration Sheet (*Exhibit 2*) are attached hereto and incorporated into the minutes.

Representative Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming, committee members, staff, visitors and pages.

There are two items on the agenda, but only one will be discussed. Rep. Easterling, Sponsor of House Bill 1317- Restrictive Covenants - Child Care, was asked to explain the bill. A copy of the Proposed Committee Substitute and the bill analysis were distributed. Rep. Alexander moved for the adoption of the Proposed Committee Substitute for discussion. Rep. Easterling began the discussion of this bill by stating that if a family child care home is located within a residence, the home may not house more than eight children.

There were two groups from Mecklenburg County - one for and one against restrictive covenants. Several members from both groups spoke on the bill. The group from the Pepperidge Drive neighborhood in Charlotte discussed the problems they experienced with a family child care home operating in their neighborhood. The other group expressed how the family child care homes had been beneficial to them.

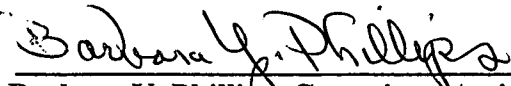
There was much discussion about family child care homes and adult care homes in residential areas.

A roll call vote was conducted. (7 yes – 4 no) (Exhibit 3).

With no other business before the committee, Rep. Boyd-McIntyre adjourned the meeting.

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Representative Flossie Boyd-McIntyre, Co-Chair



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Barbara Y. Phillips, Committee Assistant



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

H

2

HOUSE BILL 1317  
Committee Substitute Favorable 4/24/01

Short Title: Restrictive Covenants - Child Care.

(Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN RESTRICTIVE COVENANTS DO NOT  
APPLY TO LICENSED FAMILY CHILD CARE HOMES.

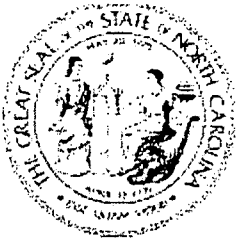
The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7 of Chapter 110 of the General Statutes is amended by  
adding a new section to read:

**"§ 110-109. Certain private agreements void.**

A family child care home is a residential use of property. Any restriction,  
reservation, condition, exception, or covenant in any subdivision plan, deed, or other  
instrument of or pertaining to the transfer, sale, lease, or use of property that would  
permit residential use of property but prohibit the use of that property as a licensed  
family child care home is, to the extent of the prohibition, void as against public policy  
and shall be given no legal or equitable force or effect."

**SECTION 2.** This act is effective when it becomes law.



## BILL ANALYSIS

# House Bill 1317: Restrictive Covenants - Child Care

**Committee:** Children, Youth and Families  
**Date:** Monday, April 23, 2001  
**Version:** PCS

**Sponsor:** Rep. Easterling  
**Analysis by:** Y. Canaan Huie  
Staff Attorney

**SUMMARY:** *Declares that a family child care home is a residential use of property and that any restriction in a deed that allows residential use of the property but prohibits use of the property as a family child care home is void as against public policy.*

**BACKGROUND:** Under current North Carolina law, regulated child care facilities are classified as either child care centers or family child care homes. Family child care homes must be located within a residence and may not serve more than eight children.

A restrictive covenant is a provision in a deed that limits the use of property and prohibits certain uses. An example of a restrictive covenant is a provision that limits the use of property to residential purposes and prohibits the use of the property for commercial purposes.

In 1991, the North Carolina Court of Appeals found the operation of a family child care home to be a commercial activity. In the case of Walton v. Carignan,<sup>1</sup> the court refused to strike down a restrictive covenant that prevented the use of the property as family child care home.

**ANALYSIS:** This bill would make void as against public policy any restrictive covenant that would permit the residential use of property but would prohibit the use of that property as a family child care home. Such a provision is rare, though not unheard of, under North Carolina law. In 1981, the General Assembly enacted G.S. 168-23 which has a similar affect in regards to family care homes.<sup>2</sup> Under the public policy doctrine, a court may refuse to uphold the provisions of a contract that violate law or public policy. This bill would declare it to be the public policy of this State that family child care homes are a residential use of property and would require courts not to enforce restrictive covenants to the contrary.

<sup>1</sup> 103 N.C.App. 364, 407 S.E.2d 241 (1991).

<sup>2</sup> A family care home is an adult care home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment to not more than six resident handicapped persons.

## ROLL CALL VOTE

$$\frac{7}{\text{YES}} \quad \frac{4}{\text{NO}} = \underline{11} \text{ (TOTAL)}$$

HB# \_\_\_\_\_  
SB# \_\_\_\_\_

**HOUSE STANDING COMMITTEE ON CHILDREN, YOUTH AND**  
**FAMILIES**

House Subcommittee on \_\_\_\_\_

[illegible]

**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:  
By Representative(s) **Boyd-McIntyre and Hunter** (Chair/Chairs) for the Committee on  
**CHILDREN, YOUTH AND FAMILIES.**

☐ Committee Substitute for  
H.B. 1317 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CERTAIN  
RESTRICTIVE COVENANTS DO NOT APPLY TO LICENSED FAMILY CHILD CARE  
HOMES.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on  
Appropriations ☐ Finance ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐.
- ☒ With a favorable report as to committee substitute bill (# \_\_\_\_\_), ☐ which changes the title,  
unfavorable as to (original bill) (Committee Substitute Bill # \_\_\_\_\_), (and recommendation  
that the committee substitute bill # \_\_\_\_\_) be re-referred to the Committee on \_\_\_\_\_.)
- ☐ With a favorable report as to House committee substitute bill (# \_\_\_\_\_), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

# VISITOR REGISTRATION SHEET

Children, Youth & Families  
Name of Committee

4-24-01  
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Kimberley Hare	
Jessie Constancy	
Robert P. Miller	
Lara Hamilton	
Betty Barker	
Summitte Kline	
Amanda McClain	
STEPHANIE GADSDEN	
LORI NORMAN	
Brenda Campbell	Superlative C.P. 3339 Bartfield Dr. Chas NC 28217
Georgia Nikol	
ROSEMARY WALKER	
Kristin Williams	
Gael Singerman	CCRI
Helen Lipman	Meck. Co. Social Services
Sue Barnett	Sue's Great Place
James H. Brown	
Gretchen Stabler	Child Care Resource & Referral of Wake Co.
Roz Savitt	NC Child Care Coalition
Preetta Blackman	King's Kids Home Day School
John Burke	Charlotte, NC
MIKE HARRINGTON	NC House
Mary Olson	Sweet Tots Home Daycare
Jennifer Giovannini	Building Blocks Learning World Home Daycare
Anna Cook	Div. of Child Development
Bennett Heller	DTIS

## THE CHILDREN'S HEARTS

**You're the folks who make the budget  
Cast the votes and pass the laws  
And we know it's hard to meet all the demands  
But we want you to remember in everything you do  
That you hold the children's hearts in your hands.**

(Excerpt from a song titled The Children's Hearts by Tom Hunter)



**Every Child Is  
Special**



**We are Matthew, Michael, James, Ashley, Jarrett, Jaselyn, David, and Lindsay. We are enrolled at Every Child is Special. This is a five star licensed and nationally accredited family child care home. We would like to thank you for the many wonderful programs that have been made available to us through Smart Start funding. We would also like to ask you to keep us in mind when you are considering the legislation regarding family child care homes. Please protect our legally licensed family child care home from being closed down as others across the state have been. Remember that you hold our hearts in your hands!**

William T. Renfrow

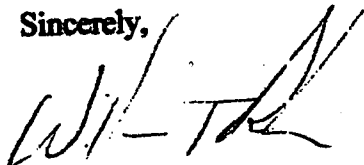
4200 Pepperidge Drive

Charlotte, N.C. 28226

This letter is to address an issue involving a home day care in my neighborhood. Last fall during a time when a home day care was operating down the street I was playing in the driveway with my 4-year-old son. He was riding his bicycle on the driveway toward the street. I was standing at the end of the driveway making sure he would not go in the street. A gray Chrysler driven by a customer of the home day care was coming down the street at a speed too fast for a residential area. He made no attempt to slow down when he saw my son coming down the driveway. My son stopped and I was there to stop him in case he did not stop but if something happened where he did not stop and I could not stop him this person would have struck him.

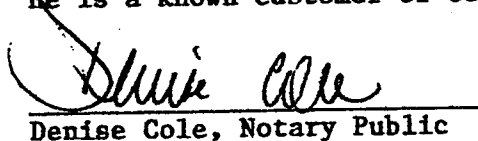
Most of the residents in my neighborhood drive consciously and safely because they expect the same from their neighbors. Persons coming into this residential area for business pick ups and drop offs seemingly do not consider this a neighborhood they are here only for the business.

Sincerely,

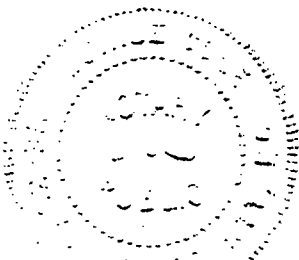


William T. Renfrow

William T. Renfrow personally appeared before me this 23rd day of April, 2001.  
He is a known customer of Central Carolina Bank.

  
Denise Cole, Notary Public

My commission expires February 17, 2002



My husband and I bought our home in Montibello Crossing in 1991. We have two (2) children who were small at that time. One of the reasons that we bought in this neighborhood was that it was a nice, quiet, family neighborhood.

In Sept. 1999, our "quiet" neighborhood was about to change. The house next to me had been bought by a couple who had three (3) children. Initially, I was happy at the thought of the possibility of playmates for my children (at least for my daughter, who was the same age as their oldest daughter). But then I was very shocked and dismayed when I learned that the new neighbor planned to open a day care center in her home. I could not believe that someone in our neighborhood would open a business – a business with such a "public" nature – in our neighborhood. This was not a business where someone is a manufacturer's representative taking phone orders or a business where someone would work at their computer all day typing invoices. This was a business where "customers" would come every morning and be picked up in the afternoon. It would mean visible activity – actually knowing that a going commercial business was being conducted in that house. Little did I know that life in Montibello Crossing would be changed more than I imagined! My new neighbor kept 10 children (these children were kept all day – none were "after school"). There was a lot of traffic in the morning when the children were brought to the day care and then there was a lot of traffic in the afternoon. Also, there was quite a bit of speeding either time because the parent was late. I was also not prepared for the "activity" at the house – there always seemed to be some kind of activity there. There were always cars either in her driveway or coming to or leaving her home (the business had 2 employees). There were periods of noise and there were deliveries. Not that any of these things are unusual as an occasional occurrence, but these are things that happened on a consistent basis. And there were 2 times that I was stopped in the street and asked by a parent about where the day care was located. And there was the time that 2 parents fought in the driveway of the house and residents of the entire street heard their arguing. And there was the time when a caravan of parents (and perhaps the operator) drove their cars up and down our street, blowing their horns and yelling. This is NOT quiet enjoyment of your neighborhood! This is having to live in a business environment. I do not believe that that this is a lifestyle that any citizen should have to live with because their right to enforce their restrictive covenant requiring no business has been taken away from them by the North Carolina General Assembly



Is the public policy of the State of North Carolina to protect the residential status of family child care as stated in Representative Easterling's position paper? It may well be the policy of the state to make sure that child care is safe, wholesome, licensed and age appropriate. But it is not stated in any statute that the public policy of North Carolina is to protect and expand the residential status of family child care.

The quote in Representative Easterling's position paper "It is the public policy of this State to strengthen and preserve the family as a unit. ...." is from Chapter 131 of the North Carolina General Statutes. That statute is referring to the state's public policy when placing a child for adoption or foster care. It certainly does not refer IN ANY WAY to private day care. The duty of the state regarding day care does not rise to the level of the responsibility that it has to a child in foster care or adoption. To quote a statute that is clearly not applicable to a certain position is very misleading.

April 21, 2001

My name is Kim Hare and I live in Charlotte. My husband and I bought our home on Pepperidge Drive in July of 1991. I was pregnant with our first child. We wanted a quiet, residential neighborhood in which to raise a family. Not only did we find that but the restrictive covenants of the neighborhood ensured that. We have found our neighbors to be warm, caring people and folks who watch out for one another.

Part of this scenario changed dramatically in November of 1999 when a business opened up in a house 3 doors down from us. Overnight we went from a quiet street to one with traffic. I don't just mean morning and evening traffic. I mean a substantial increase in traffic throughout the day. This was not a welcome change nor was it the street we envisioned when we bought our home.

One of the aspects of the street we liked so much was that it didn't lead anywhere except to a circle. Although it had no sidewalks it still proved to be an ideal area to stroll, ride bikes, whatever. On pretty days we did that freely whenever we wanted to. During the year the business was open we could not and did not do this so freely - it became unsafe. Also due to the number of strangers driving up and down our street we had to become much more diligent about locking our house and garage even if it was only while calling on a neighbor.

House Bill 1317 is an ill-conceived, cleverly written piece of legislation which, if it became law, would change the face of neighborhoods such as ours forever.

I would now like to address the heading on Rep. Easterling's comments entitled Parental Choice. "It is the state's duty to preserve a parent's access to family child care homes as a child care choice." What source is this statement from? Is it official state policy?

Also, under this same heading, Rep. Easterling implies that if HB1317 is not passed, it will mean the end of family child care homes throughout the state. **NOTHING COULD BE FURTHER FROM THE TRUTH!** Restrictive Covenants exist and are enforced only in some neighborhoods in North Carolina. Not every area has them and not every area which has them enforces them because the cost of enforcing them is very expensive.

If a survey were taken in North Carolina, there are probably more neighborhoods without restrictive covenants than those with them. To pass a bill that would make it impossible for property owners to enforce a covenant against a business in their residential neighborhood would be removing a property right upon which citizens had relied when they bought their property. The business would have to be very disruptive to the neighborhood for property owners to take legal action and who better to judge than the people who live in the neighborhood? **DO NOT TAKE AWAY THIS PROPERTY RIGHT FROM THOSE PEOPLE WHO HAVE ELECTED TO LIVE IN A RESIDENTIAL-ONLY NEIGHBORHOOD.**

Thank you for your time.

- North Carolina courts have consistently held that family child care for pay is a BUSINESS and, as such, cannot operate in a neighborhood where (1) restrictive covenants prohibit a business in a residential area and where (2) a property owner in that neighborhood files a law suit to prohibit that business.

**PLEASE NOTE – BOTH ELEMENTS MUST BE PRESENT!**

In 1991, the North Carolina Supreme Court upheld the rulings of the Appellate Court in a similar case in Dare County. In that case, the North Carolina Court held that a family child care home caring for only 3 children was a business. It is known that the Mecklenburg County Superior Court held this way in November, 2000. There is no way to track other Superior Court cases because they are not reported.

If a business is “non-intrusive”, no property owner would ever pay an attorney to file a law suit. Only if a business is VERY INTRUSIVE would a property owner pay to file a law suit and to have court representation to have a business prohibited in a neighborhood.

- There are many neighborhoods in North Carolina where there are NO RESTRICTIVE COVENANTS. Restrictive covenants are only in a deed if they are put there by the developer of an area of real estate WHEN THE NEIGHBORHOOD IS BEGUN OR FIRST BUILT.
- The current proposed bill would elevate the right of family child care home businesses to be opened above that of existing residents, without regard to the restrictive covenants of an area and would make it tantamount to a CONSTITUTIONAL RIGHT. (public policy statement) - clearly not something the Legislature wants anything to do with.
- NC home insurance policies consider even one (1) child kept in a home for remuneration purposes enough to cause that residence to be considered a business. The homeowner is required to obtain a

commercial policy for that portion of the home used for daycare.  
How would/is this being addressed?

# Rep. Easterling's "Fact" Sheet

## Introduction

Family child care has existed within residential neighborhoods for decades. It has evolved from a model of neighborhood moms taking care of neighborhood children, friends, and relatives. Currently, family child care is a licensed system which affords basic protections for the health and well-being of children.

This legislation aims to protect the residential status of family child care and to ensure that the public policy of the state is not subverted at the neighborhood level. This bill is not about building more day care homes; family child care homes already exist and by definition they are located in a residence. Since North Carolina law requires that a family child care home be located in a residence (NCGS 110-86), North Carolina law must also deem family child care homes a residential use of property.

According to Chapter 131D-10.1, "It is the public policy of this State to strengthen and preserve the family as a unit. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family." (This is relevant to foster care, adoption...Article 1A is titled Control over child placing and child care.)

## Facts

In North Carolina, anytime there are more than two children being cared for, the home must be regulated.

A family child care home holds only 2-8 children, of which a maximum of five can be preschoolers (NCGS 110-86).

In Mecklenburg County, the average annual cost of family child care is \$530 less than the cost of center-based care.

Restrictive covenants are provisions in a deed limiting the use of a property and prohibiting certain uses.

## Parental Choice

It is the state's duty to preserve a parent's access to family child care homes as a child care choice. Many parents prefer family child care for infant/toddler care, care for children with special needs, multiple sibling arrangement, and non-traditional hours care. Many parents feel that these homes provide a more family-like environment due to the small number of children cared for (2-8).

Parents who currently use family child care homes prefer them to center based care. The state's public policy supports family child care homes as a vital component in the child care delivery system. It is the responsibility of the legislature to protect a parent's right to choose a family child care home for their children.

### Comparison to Adult Care Homes

Adult care homes are allowed in North Carolina.

Chapter 168, Article 3 of the NCGS addresses family care homes. As used in Article 3, family care homes mean adult care homes that abide by the following criteria:

1. Adult care homes provide care not more than six unrelated residents.
2. These homes have support and supervisory personnel that provide room and board, personal care and habilitation services in a family environment (NCGS 168-21).

Article 3 (168-22) further outlines zoning:

"A family care home (adult care home) shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions."

According to NCGS 131D-2 (1b) adult care homes provide 24-hour service.

**\*\*Point being, if family care homes otherwise known as adult care homes are deemed a residential use of property and shall be permissible in all residential districts, then why not extend that same right to family child care homes? Why is there a need to discriminate against children when adults are given the privilege of staying in a residence? These adults live in these residential houses; they are cared for 24 hours a day. Children do not even spend the night; they are cared for during the day while parents are at work.**

4/23/2001

I AM JOHN BURKE FROM PEPPERIDGE DRIVE IN CHARLOTTE, NC

RE: COMPARISON TO ADULT CARE HOMES (aka FAMILY CARE HOMES) CF CH131D-2

ARTICLE 3 OF CHAPTER 168-22 OF NCGS HAS **ABSOLUTELY NOTHING TO DO WITH HOME DAY CARE**. IT HAS TO DO WITH HANDICAPPED PEOPLE WHO NEED 24 HR/DAY CARE

THE STATE'S POSITION IS THAT THE STATE HAS THE RESPONSIBILITY TO CARE FOR ADULTS WHO ARE INCAPABLE OF INDEPENDENT LIVING. **THESE PEOPLE LIVE ON THESE PREMISES**. THERE IS NONE OF THE HIGH TRAFFIC ASSOCIATED WITH DAY CARE CENTERS IN A RESIDENTIAL NEIGHBORHOOD.

IN TERMS OF SHEER NUMBERS OF OPERATIONS, THERE WILL BE MANY FEWER OF THESE TYPES OF OPERATIONS VS CHILD CARE CENTERS. ALSO COVERED BY 168-22(A) IS THE STIPULATION THAT A POLITICAL SUBDIVISION MAY PROHIBIT ONE OF THESE HOMES FROM BEING LOCATED WITHIN A ½ MILE RADIUS OF AN EXISTING HOME.

BUT THERE IS NO EVIDENCE OF THIS TYPE OF RESTRICTION IN HB1317. IF THERE WERE, WHAT WOULD IT BE? ONE PER BLOCK? EIGHT PER BLOCK? ONE PER ½ MILE RADIUS? IF LIMITED IN NUMBER, WOULD THERE BE A TENDENCY TOWARD MONOPOLY PRICING AND POOR CARE AND POLITICAL PATRONAGE? IF THERE WERE TO BE A LIMITATION ON THE NUMBER OF CHILD CENTERS, WHO WOULD JUDGE THE MOST WORTHY AND WHAT WOULD BE THE CRITERIA?

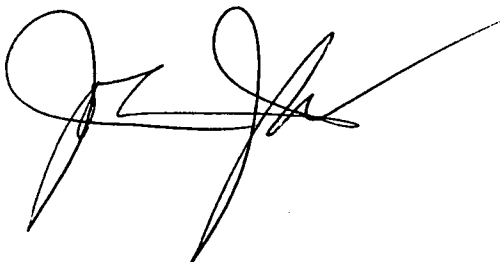
REGARDING PARAGRAPH 2 OF PARENTAL CHOICE, MS. EASTERLING'S CLAIM THAT THE STATE'S PUBLIC POLICY SUPPORTS FAMILY "CHILD" CARE HOMES AS A VITAL COMPONENT IN THE CHILD CARE DELIVERY SYSTEM, **AS PUBLIC POLICY**, IS NOT STATED IN NC LAW. THIS PHRASE IS ONLY REFERRED TO AS PERTAINS TO HANDICAPPED ADULTS. IT IS TAKEN OUT OF CONTEXT AND ADDED IN THIS SECTION.

REP EASTERLING THEN GOES FURTHER AND STATES THAT IT IS THE "RESPONSIBILITY" OF THE LEGISLATURE TO PROTECT A PARENT'S RIGHT TO CHOOSE A FAMILY CHILD CARE HOME FOR THEIR CHILDREN. **WHERE IS THIS PARTICULAR RESPONSIBILITY, AS STATED BY MS EASTERLING, DEFINED?** IF THIS WAS SO AND I HAPPEN TO LIVE IN FROG POND, NC, WHO BACKS UP THIS RIGHT FOR ME? IS IT THEN THE RESPONSIBILITY OF THE STATE TO INSTALL AND TO MAN A FACILITY FOR ME? IF SO, WHERE? NEXT DOOR? EVERY ½ MILE? WHERE DOES THIS SO-CALLED RESPONSIBILITY ON THE STATE'S PART BEGIN AND WHERE DOES IT END?

I HAVE ON HAND A NOTARIZED LETTER DESCRIBING A DANGEROUS INCIDENT INVOLVING AN ALMOST HOME DAY CARE PARENT IN WHICH A 4 YEAR OLD WAS ENDANGERED BY A PARENT WHO WAS IN A HURRY. WITH THE LARGE NUMBER OF CENTERS THAT COULD BE OPENED IN THESE SUPPOSEDLY "SAFE" NEIGHBORHOODS, IT IS ONLY A MATTER OF TIME UNTIL THE FIRST CHILD IS INJURED OR KILLED. *WHEN THIS HAPPENS*, HOW MANY ON THIS COMMITTEE WILL FACE THAT PARENT AND SAY "BUT IT WAS FOR THE CHILDREN." WILL THE RESPONSE BE, "SORRY, BUT YOUR CHILD WAS **JUST COLLATERAL DAMAGE?**"

I URGE YOU ALL TO SERIOUSLY EVALUATE THIS **VERY POOR BILL** AND **VOTE NO**

I THANK YOU ALL FOR YOUR TIME

A handwritten signature in black ink, appearing to be 'John Burke', with a long horizontal line extending to the right.

On November 17, 1999, "Almost Home Day Care" opened and the restful ambiance of my neighborhood was changed. The peace I had enjoyed for almost 15 years ceased to exist.. Used to hearing the occasional barking dog, or the lilt of a neighbor's child's voice, what I heard instead was the swish of a cars speeding down the street and brakes squealing. It was particularly bad between the hours of 7-9 in the morning, and 4-6 in the evenings, but the additional traffic was a problem throughout the day. "Late parents" not only sped down the street, more often than not, they rolled through the stop signs. There was always a hub-bub of activity, and what had once been my respite became a nightmare. Oblivious to the residents, day care parents did not extend even the simplest of courtesies - on any given day at least one or more parent was running late and with total disregard for the safety of the residents and their children, would speed down the street and slam on their brakes. One of our own youngsters, a boy of four, was almost struck by one such parent.

I am now going to address a portion of Rep. Easterling's comments.

In North Carolina anytime there are more than 2 children being cared for, the home must be regulated. The fact IS that this is not changed by this bill, one way or the other. The fact IS that Almost Home Day Care operated with no regulation from November, 1999, until July, 2000. From the website of the North Carolina Division of Child Development, it shows that Almost Home Day Care was operating on a temporary license that could be issued for no more than 90 days. Almost Home Day care opened on November 17, 1999, and the date listed on the Program Detail is July 6, 2000, proving the day care did not have the proper licensing. According to Eva Williams, who was the liaison to Mecklenburg County Division of Child Development, Almost Home Day Care was initially operating without a license (information obtained from Raleigh). Ms. Williams stated further that operating a day care without a license of any kind and/or relocating an existing day care home to a different location without notifying their office (and they did not notify their office, according to Ms. Williams) was grounds for shutting down the day care. Instead of shutting down Almost Home Day Care, however, the director of Mecklenburg County Division of North Carolina Department of Child Development issued the temporary license. Where was the regulation then?

NCGS 110-86 states that a family child care home holds only 2-8 children, of which a maximum of five can be preschoolers. Newborns to kindergartners are preschoolers. The fact IS that Almost Home day care had 10 preschoolers in their care, plus the primary providers own three school age children. Mecklenburg County states that a child care home serves between 6 & 15 children. If Mecklenburg County's definition and the state's definition of what constitutes a child care home differ so radically, what will the differences be statewide? Almost Home Day Care applied for a license for 15, was given a license for 12, thus excluding it from the state's definition of a child care home.

In Mecklenburg County, the average annual cost of family child care is \$530 less than the cost of center based care. Because this bill would affect the entire state of North Carolina and not just the residents of Mecklenburg County, the annual cost difference in



Mecklenburg County is irrelevant. More, since existing child care homes in areas where covenants do not exist or are not enforced would not be affected by this one way or the other, this bill has no pertinence.

Restrictive covenants are provisions in a deed limiting the use of a property and prohibiting certain uses. The fact IS that restrictive covenants are provisions in some deeds, not all, that limit the use of property and prohibit certain uses. If something is non-intrusive, no one will say anything and it certainly does not require the protection of a bill. If is intrusive, homeowners should not be denied the constitutional right to preserve the safety and integrity of their neighborhoods.

I bought my home in a "residential only" neighborhood to ensure in some small measure, a degree of safety and peacefulness that "residential only" standard of living provides. Please don't tell me that my children don't deserve the same consideration you would afford to children who live outside my neighborhood. Don't deny me my constitutional right - **VOTE NO!**

Thank you for your time.

*Betty Burke*

## Program Detail

**Name:** Almost Home Day Care

**Street:** 4127 PEPPERIDGE DR

**City:** CHARLOTTE NC 28226

**Phone:** (704) 542-3111

- **Permit Information:**

Type of License	Temporary License
ID Number	60001481
Age Range	From Infant Through 12 yrs
Capacity	12
Hours of Operation	Daytime care only

- **Star Rating Information:** None

Star license has not been obtained.

- **Certifications/Accreditations:** Yes

A facility may have one or more certification or accreditation. Certification and accreditation status is provided to the Division of Child Development by the facility. Please contact the facility directly for this information. Parents should verify the accuracy of this data.

- **Subsidized Child Care Program Approval (SCC)?** Yes

- **Approved for the (Care of Sick Children)** No

- **Sanitation inspection:** 08/20/1999

- **Sanitation rating:** Superior

- **Enroll children with special needs?** Yes

[Dept. of Health and Human Services](#) | [Div. of Child Development](#) | [Resources in Child Care](#)  
[Glossary](#) | [Request for Information](#) | [E-Mail the Webmaster](#)

Last updated: June 30, 2000 at 09:36:34

Provisional License	The license of a child care program may be placed on provisional status if the program has not met the child care rules either on purpose, or it has happened more than once, or it is dangerous to the health and safety of children. A provisional license is given so that the program has time to fix the problems. The provisional license, and the notice explaining why it was given, must be posted in the child care program where it can be easily seen.
Rated License	New rated licenses showing one to five stars will replace all "A" and "AA" center licenses and Family Child Care Home licenses by September 1, 2000. Each part of the rated license (program standards, educational standards, and compliance history) is worth up to five points. The star rating is based on the total points of all three areas. Programs with a one star license meet minimum standards. Programs with a two to five star license voluntarily meet a higher level of enhanced standards.
Religious-sponsored Program	Any child care center, home, or summer day camp run by a church, synagogue, or school of religious charter. Religious-sponsored programs do not have to meet certain rules about staff qualifications or other rules about training hours or activities. Programs may choose to have a Notice of Compliance that shows that the center or home meets minimum standards such as health, fire and safety rules.
Restrictions on License	Restrictions on a license show specific limits a program has.
Revocation of Permit	A child care program's permit may be taken away if Division of Child Development decides that the program has not met the rules or law on purpose, on an on-going basis, or the program is dangerous to the health or safety and/or the program has not made efforts to fix the problem. The child care provider is told in advance of the decision, and is given the chance to ask for a hearing about the decision, before the permit is taken away. If the child care provider does not ask for a hearing about the decision, the program must close. If there is a hearing, the provider may continue to operate until the process is complete. The notice that the permit has been taken away must be posted in the child care program where it can be easily seen.
Special Provisional Permit	A special provisional permit may be given to any type of center or home when abuse or neglect occurred in the child care arrangement. Under a special provisional, the Division may prevent the enrollment of new children until satisfied that the circumstances leading to the abuse/neglect have been corrected. Both the special provisional permit and the letter stating why it was given must be posted.
Staff/Child Ratio Policy	A Child Care Program may choose to set staff/child ratio lower than the ratios mandated by state regulations. For more information about ratios go to Comparison of requirements for "A" and "AA" licenses
Star Rating	Child Care Programs may obtain a 1-5 Star Rated License. Programs with a 1 star license meet minimum standards. Programs with a 2-5 star license voluntarily meet a higher level of enhanced standards.
Suspension of Permit	A child care program's permit may be suspended for up to 45 days if the Division of Child Development decides that the program is not meeting rules on purpose, on an on-going basis, or dangerous to the health or safety of children and/or the program has not made reasonable efforts to correct the problem. When the permit is suspended, the program must close. Notice of a suspended permit must be posted in the program where it can be easily seen.
Temporary License	A temporary license is given to a new center or large home, or to a previously licensed center or large home when there is a change in ownership or location, for a period of no more than 90 days. This allows the center or large home to achieve a satisfactory rating for a regular license. A temporary license must be posted in the center where it can be easily seen.
Total Points	This number reflects the sum of the three point categories of the star rating system: Program Standards, Educational Standards and Compliance History. The total possible point value is 15.

CHARLOTTE CODEPART 2: DEFINITIONS

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★ Child care center.

An individual, agency or organization providing supervision or care on a regular basis to children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

★ Child care home.

A facility run by an individual, that provides supervision or care on a regular basis in the individual's home for between 6 to 15 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

City Attorney.

The City Attorney or his or her designee.

City Engineer.

The director of the City Engineering Department or his or her designee.

Civic, social service, or fraternal facility.

A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses, such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the general public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

Clinic, medical, dental, or optical.

A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

Clinic, veterinary.

A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals or their grooming and indoor boarding, but not including the training of animals or outdoor cages, pens, or runs for animals.

## CHARLOTTE CODE

**PART 5: SPECIAL REQUIREMENT FOR CERTAIN USES****PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES****Section 12.501. Purpose.**

This Part provides for the regulation of certain land uses which because of their utilitarian nature or unique locational requirements may be found in a number of zoning districts. Circumstances under which these uses are allowed and what approval process is required are indicated for each use.

**Section 12.502. Adult care center, adult care homes, child care center and child care homes.**

For the purposes of this ordinance, facilities for the temporary care of adults and children are divided into four classes - adult care center, adult care home, child care center, and child care home. Adult care centers serve more than 6 adults and adult care homes up to 6 adults. A child care center serves more than 15 children and a child care home serves between 6 and 15 children. The development requirements for each class of facility is indicated below:

- (1) Child Care Centers and homes, registered by the North Carolina Department of Human Resources, may be established as a principal or accessory use in the multi-family, institutional, research, office, business, UMUD, U-I and I-1 districts, and as an accessory use in the I-2 district. Child care centers are permitted as accessory uses in religious institutions, elementary, junior and senior high schools and government buildings permitted in single family zoning districts.
- (2) Child care homes registered with the North Carolina Department of Human Resources may be established as an permitted use in the single family residential districts. All child care facilities shall meet the following standards:
  - (a) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources;
  - (b) Any required outdoor play space as required by the Department of Human Resources must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback. Fences must comply with the fence regulations in Section 12.406;

1/18/00  
✕ not within any required buffer or screening area

Family child care homes and child care centers must be licensed. Once a license is issued, it does not have to be renewed. Licenses will soon have a rating that will reflect the program's standards, staff education, and compliance with the law. There are different requirements for licensed family child care homes and child care centers based on the number of children in care.



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## ✓ **Family Child Care Homes**

A family child care home is licensed to care for five or fewer preschool age children, including preschoolers living in that home. (Individuals caring for one or two children are exempt from being licensed.) In addition, three school-age children may be enrolled. The provider's own school-age children are not counted for purposes of licensure. Licenses are issued to family child care home providers who meet the following requirements:

- Effective January 1, 1998, new home providers must be 21 years old with at least a high school education or its equivalent. In addition, they must be mentally and emotionally capable of caring for children.
- He or she must undergo a criminal records background check.
- Effective March 1998, all household members over age 15 who are present in new family child care homes when children are in care must also undergo a criminal records background check.
- All family child care home providers must have some training in child development and CPR each year. They must also have first aid training every three years.

All family child care homes must meet basic health and safety standards. Providers must have a copy of children's health forms on hand. They must provide age-appropriate toys and activities, as well as nutritious meals and snacks, for the children in care.

## ✓ **Child Care Centers**

Licensing as a center is required when six or more children are cared for in a residence, or when three or more children are cared for in a building other than a residence.

Religious-sponsored programs are exempt from some of the regulations described below if they choose not to be licensed. Programs that operate for less than four months in a row, such as summer camps, are exempt from licensing. Some smaller centers are located in homes, and meet more standards than family child care homes in order to care for more. Child care centers may voluntarily meet higher standards and receive a license with a higher rating. Centers will be visited at least annually to make sure they are following the law and to receive guidance from child care consultants. Licensed centers must meet requirements in the following areas.



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### **Staff**

The administrator of a child care center must be at least 21, and by September 2000 have at

**NO SECTION II — LIABILITY COVERAGES FOR HOME DAY CARE BUSINESS  
LIMITED SECTION I — PROPERTY COVERAGES FOR  
HOME DAY CARE BUSINESS**

**Kemper.**

If an "insured" regularly provides home day care services to a person or persons other than "insureds" and receives monetary or other compensation for such services, that enterprise is a "business." Mutual exchange of home day care services, however, is not considered compensation. The rendering of home day care services by an "insured" to a relative of an "insured" is not considered a "business."

Therefore, with respect to a home day care enterprise which is considered to be a "business," this policy:

1. does not provide Section II — Liability Coverages because a "business" of an "insured" is excluded under exclusion 1.b. of Section II — Exclusions;
2. does not provide Section I — Coverage 3 coverage where other structures are used in whole or in part for "business";
3. limits coverage for property used on the "residence premises" for the home day care enterprise to \$2,500, because Coverage C — Special Limits of Liability — item 8. imposes that limit on "business" property on the "residence premises";
4. limits coverage for property used off the "residence premises" for the home day care enterprise to \$250, because Coverage C — Special Limits of Liability — item 9. imposes that limit on "business" property off the "residence premises." Special Limit of Liability item 9. does not apply to adaptable electronic apparatus as described in Special Limit of Liability items 10. and 11.

**THIS ENDORSEMENT DOES NOT CONSTITUTE A REDUCTION OF COVERAGE.**

**NO 04 96 (Ed. 04 91)**

Copyright, Insurance Services Office, Inc. 1990

**John burke**

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**From:** "Jane Gray (Speaker's Office)" <Janeg@ncleg.net>  
**To:** <hobo211@mindspring.com>  
**Sent:** Wednesday, June 28, 2000 3:14 PM  
**Attach:** HJR 1576.doc  
**Subject:** HJR 1576

Mr. and Mrs. Burke: Attached is a fairly lengthy explanation of the law as it applies or doesn't apply to HJR 1576. I think it clearly shows that what Rep. Easterling proposes would not apply to the current situation in your neighborhood. Therefore, I don't think it necessary for me to come to Charlotte as you suggested in your last email. I hope the information clarifies some misunderstandings that have arisen over this resolution. I will be sending the same information to the neighbors that sent the "form letter" or email. I believe this matter is resolved as far as Rep. Easterling is concerned and she will not pursue the legislation.

<<HJR 1576.doc>>

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Jane P. Gray  
 General Counsel to the Speaker of the House  
 (919) 733-3451  
 (919) 715-0772 (Fax)

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## **HJR 1576 - WHAT IT IS AND WHAT IT ISN'T**

- It is a resolution to permit Rep. Easterling to file a bill that would otherwise not be eligible under the terms of the House Adjournment resolution.
- It is not a bill that would allow child care centers in residential neighborhoods.

Initially, it is important to note that no bill dealing with a substantive issue has been filed. The only document that has been filed is a House Joint Resolution to permit the subsequent filing of a bill to provide that "certain restrictive covenants do not apply to licensed family child care homes."

What is a "licensed family child care home" vs. a "child care center?"

G. S. 110-36(3) defines child care facility as follows:

"Child care facility. - Includes child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-36(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." (Emphasis added) →  
(The exclusions in G.S. 110-36(2) are for public and private schools, vacation Bible school, parent co-ops, etc.)

Thus, by definition, a family child care home must be in a residence. HJR 1576 refers only to family child care homes, not child care centers.

The reference to "large home day care" referred to in the email messages being sent from Charlotte is misleading. There are "small and large child care centers" referred to in the regulations governing staffing ratios for child care centers. A child care center may or may not be in a residence. There is no "small vs. large" family child care home.

Of the maximum 8 children permitted in family child care homes, the operator can serve no more than 5 preschool-age children, including the operator's preschool-age children. G.S. 110-91(7)b. Family child care homes are NOT required to have several parking spaces with commercial signage. The required square footage is minimal: 25 square feet of floor space for each child (exclusive of hallways, closets, bathrooms, and kitchen) and 200 cubic feet of air space for each child. For a family child care home operating with the maximum 8 children, that would mean 400 square feet of floor space and 1600 cubic feet of air space. An operator of a family child care home would NOT be required to enlarge the home; they would be limited to serving the number of children the existing space would accommodate.

With regard to the home at issue in Charlotte on Pepperidge Drive, I have spoken with Chuck Walker who is a building planning officer with Mecklenburg County. He informs me that the garage enclosure did not increase the square footage of the garage. The homeowner, Mrs. Nixon, informs me that the garage modification is for the expected arrival of an elderly parent, providing a first floor bedroom and handicapped accessible bathroom. The only modification of her home for the child care license was to add a sink separate from her kitchen sink for child care purposes. Mr. Walker confirmed that she is not required to have additional parking or commercial parking signs.

However, Mrs. Nixon is currently licensed as a small child care center (up to 12 children), NOT a family child care home. Thus, if the resolution were to pass and the bill referred to therein were to be introduced and passed, it would be of NO benefit to Mrs. Nixon. It would NOT permit her or anyone else to operate a child care center in the neighborhood. I am also informed that current zoning regulations in Charlotte already permit family child care homes in residential neighborhoods.

Jane E. Gray  
General Counsel to the Speaker



# MECKLENBURG COUNTY

Engineering & Building Standards Department

## NOTICE OF VIOLATION

### CERTIFIED MAIL

May 11, 2000

Spero and Georgia Nixon  
4127 Pepperidge Drive  
Charlotte, NC 28226

RE: 4127 Pepperidge Drive  
VIOLATION NO.: 80-164-00  
PARCEL NO.: 209-272-02

ZONING: R-3  
MAP NUMBER: 158  
INSPECTION DATE: 05/10/2000

The following provisions of the City of Charlotte Zoning Ordinance have been violated:

Sections: 4.103 Certificate of Occupancy Required

It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of occupancy.

9.203 Child Care Homes

The following uses shall be permitted in the R-3, R-4, R-5, R-6 and R-8 districts if they meet the standards established in this Section and all other requirements of these regulations:

- 4) Child Care Homes, subject to the regulations of Section 12.502.

12.502 Child Care Homes Registered with North Carolina Department of Human Resources

For the purposes of this Ordinance, facilities for the temporary care of adults and children are divided into four classes – adult care center, adult care home, child care center, and child care home... A child care center serves more than 15 children and a child care home serves between 6 and 15 children. The development requirements for each class of facility are indicated below:

- 1) Child Care Centers and Homes, registered by the North Carolina Department of Human Resources, may be established as a principal or accessory use in the multi-family, institutional, research, office, business, UMUD, U-1 and I-1 districts, and as an accessory use in the I-2 district. Child Care Centers are permitted as accessory uses in religious institutions, elementary, junior and senior high schools and government buildings permitted in single-family zoning districts.
- 2) Child Care Homes registered with the North Carolina Department of Human Resources may be established as a permitted use in the single-family residential districts. All child care facilities shall meet the following standards:

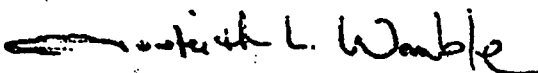
- a) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources;
- b) Any required outdoor play space as required by the Department of Human Resources must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback. Fences must comply with the fence regulations in Section 12.406;
- c) In single-family districts, the small child care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling;
- d) Setback, yard and height requirements will be the minimum required for the district in which it is located;
- e) There is no limit on the hours of operation of a child care center, but no outdoor play shall be permitted after sundown.

You are hereby instructed to cease and desist operating a "Daycare" from the premise and/or obtain all permits required to operate a daycare home.

**IMMEDIATELY CORRECT THE VIOLATION.** If the violation is not corrected and there is no appeal to the Zoning Board of Adjustment, the Department reserves the right to exercise any one of the following **REMEDIES: REVOCATION OF A CERTIFICATION OF OCCUPANCY** making continued occupancy unlawful; issuing a **CITATION** and if unpaid, a judgement could become a **LIEN** on the property; seeking of an **INJUNCTION**; or the issuance of a **CRIMINAL SUMMONS**.

The Zoning Board of Adjustment is empowered to rule on the interpretation of the Zoning Ordinance and to grant variances when a difficulty or hardship exists. The Board will not hear appeals unless application is properly filed in the Zoning Administrator's office within thirty (30) days of the date on this Notice of Violation. Once the deadline has passed, your right of appeal is forfeited. Forms are available at this office.

If you have any questions about what is required by this Notice, please contact me at 336-3574.



Monteith L. Womble  
Zoning Enforcement Code Inspector

Enclosures

919-2951sidh

# OFFER TO PURCHASE AND CONTRACT

SPEEROS STEVE NIXON JAMES GEORGE ANN NIXON as Buyer,  
KAREN MESSINA as Seller,

upon acceptance of said Offer, agree to sell and convey, all of that plot, piece or parcel of land described below, together with all improvements thereon and such fixtures and personal property as are listed below (collectively referred to as "the Property"), upon the following terms and conditions:

1. REAL PROPERTY: Located in the City of Charlotte, NC, McClellanburg, County of Mecklenburg, State of North Carolina, being known as and more particularly described as:

Street Address: #27 PEPARIDGE DR. Charlotte, NC Zip: 28226

Legal Description: NA (A portion of the property in Deed Reference: Book NA, Page No. NA, County Mecklenburg.)

NOTE: Prior to signing the Offer to Purchase and Contract, Buyer is advised to review restrictive covenants, if any, which may limit the use of the Property, and to read the Declaration of Restrictive Covenants, By-Laws, Articles of Incorporation, Rules and Regulations, and other governing documents of the owner's association and/or the subdivision, if applicable.

2. FIXTURES: The following items, if any, are included in the purchase price free of cost: any built-in appliances, light fixtures, ceiling fans, attached floor coverings, blinds and shades including window hardware, window and door screens, storm windows, combination doors, awnings, patio or satellite dishes and receivers, burglar/fire/smoke alarms, pool and spa equipment, other energy systems, attached fireplace screens, gas logs, fireplace inserts, electric garage door openers with controls, outdoor plants and trees (other than in movable containers), basketball goals, storage sheds, mail boxes, well and/or door screens, and any items attached or affixed to the Property, EXCEPT the following items:

3. PERSONAL PROPERTY: The following personal property is included in the purchase price: all kitchen appliances

4. PURCHASE PRICE: The purchase price is \$ 200,000.00 and shall be paid as follows:

(a) \$ 200,000.00 EARNEST MONEY DEPOSIT by cash ☒ personal check ☐ bank check ☐ certified check ☐ other NA

to be deposited and held in escrow by STEVE NIXON, REALTOR, as escrow agent, until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise terminated. In the event (1) this offer is not accepted; or (2) any of the conditions herein are not satisfied, then all earnest money shall be returned to Buyer. In the event of breach of this contract by Seller, upon Buyer's request, all earnest money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this contract, then all earnest money shall be forfeited upon Seller's request, but receipt of such forfeited earnest money shall not affect any other remedies available to Seller for such breach.

NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of earnest money held in escrow by a broker, the broker is required by state law to retain said earnest money in the broker's trust or escrow account until a written release from the parties concerning to its disposition has been obtained or until disbursement is ordered by a court of competent jurisdiction.

(b) \$ NA ADDITIONAL EARNEST MONEY DEPOSIT to be paid to escrow agent no later than NA

(c) \$ NA BY ASSUMPTION of the unpaid principal balance and all obligations of Seller on the existing loan (i) secured by a deed of trust on the Property in accordance with the attached Loan Assumption Addendum.

(d) \$ NA BY SELLER FINANCING in accordance with the attached Seller Financing Addendum.

(e) \$ 200,000 BALANCE of the purchase price in cash at closing.

5. CONDITIONS: (Some NA in each blank that is not a condition to this contract.)

(a) The Buyer must be able to obtain a loan commitment on or before September 1st, 1999, effective through the date of closing, for a loan at a ☒ Fixed Rate ☐ Adjustable Rate ☐ Other NA

or NA for a term of NA year(s), at an interest rate not to exceed NA % per annum, with

mortgage loan discount points not to exceed NA % of the loan amount. Buyer agrees to use his best efforts to secure such commitment. Buyer shall be responsible for all costs with respect to any loan obtained by Buyer, except if Seller is to pay any of the Buyer's loan closing costs, including discount points, those costs are as follows:

In the event Buyer fails to provide Seller with written evidence of the loan commitment within five days after receipt of a written request from Seller (but such request may not be made before the loan commitment date listed above), then Seller may terminate this contract unless Buyer waives the loan commitment condition.

(b) There must be no declaration, enactment, passing or other governmental regulation that would prevent the reasonable use of the real property for residential purposes.

(c) The Property must be in substantially the same or better condition at closing as on the date of this offer, reasonable wear and tear excepted.

(d) All debts of trust, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at closing, such that cancellation may be promptly obtained following closing. Seller shall remain obligated to obtain any such cancellations following closing.

(e) This must be delivered at closing by GENERAL WARRANTY DEED unless otherwise stated herein, and must be for simple marketable title, free of all encumbrances except: all valuation taxes for the current year (provided through the date of closing); utility easements and servitudes and restrictive covenants that do not materially affect the value of the Property; and such other encumbrances as may be assumed or specifically agreed to by Buyer. The Property must have legal access to a public right of way.

6. SPECIAL ASSESSMENTS: Seller warrants that there are no governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no owners' association special assessments, except as follows:

(Insert "None" or the identification of such assessments, if any.) Seller shall pay all confirmed owners' association assessments and all confirmed governmental assessments, if any, and Buyer shall take title subject to all pending assessments, if any, unless otherwise agreed to as follows:

NONE

7. PRORATIONS AND ADJUSTMENTS: Unless otherwise provided, the following items shall be prorated and either adjusted before or at the parties or paid at closing: (a) All valuation taxes on real property shall be prorated on a calendar year basis through the date of closing. (b) All real estate taxes on personal property for the entire year shall be paid by the Seller unless the personal property is conveyed to the Buyer, in which case, the personal property taxes shall be prorated on a calendar year basis through the date of closing. (c) All late feeing penalties, if any, shall be paid by Seller. (d) Rents, if any, for the Property shall be prorated through the date of closing. (e) Owners' association dues and other like charges shall be prorated through the date of closing. Seller represents that the regular owners' association dues, if any, are \$ NA per NA.

8. CLOSING EXPENSES: Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for courier fee (revenue stamps) required by law. Buyer shall pay for recording the deed and for preparation and recording of all instruments required to secure the balance of the purchase price unpaid at closing.

9. FUEL: Buyer agrees to purchase from Seller the fuel, if any, situated in any tank on the Property at the prevailing rate with the cost of measurement deemed, if any, being paid by Seller.

10. EVIDENCE OF TITLE: Seller agrees to use his best efforts to deliver to Buyer as soon as reasonably possible after the acceptance of his offer, copies of all title information in possession of or available to Seller, including but not limited to title insurance policies, attorney's opinion on title, surveys, covenants, deeds, notes and deeds of trust and encumbrances relating to the Property.

11. LABOR AND MATERIAL: Seller shall furnish at closing an affidavit and indemnification agreement in form satisfactory to Buyer showing that all labor and materials, if any, furnished to the Property within 120 days prior to the date of closing have been paid for and agree to indemnify Buyer against all loss from any cause or claim arising therefrom.



This Standard Form has been approved jointly by the:

NORTH CAROLINA BAR ASSOCIATION, INC.  
 NORTH CAROLINA ASSOCIATION OF REALTORS, INC.

Standard Form No. 2



Donna and Wayne Barentine  
4137 Pepperidge Drive  
Charlotte, NC 28226  
704-542-2864

May 24, 2001

RE: Resolution for Bill #1317 amending Article 7 of Chapter 110 of the General Statutes

Dear Committee Members:

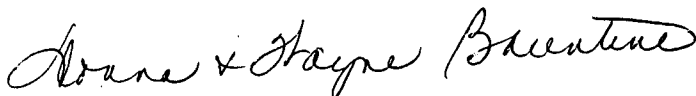
I have many concerns regarding the above resolution for Bill #1317. Our neighborhood covenants restrict any business from operating in our subdivision. I have just gone through a lengthy legal battle with a neighbor who opened a family care home next door to me. This family care home opened with no regard for this restriction. The court did rule in our favor. However, she has set out to try to coerce legislators into thinking this is about the needs of children. And if that happens it will **override** the court's decision.

This bill states that family care homes should have the same right to operate as adult care homes in residential areas. Adult homes are those that have residents who actually live there. Family care homes are an **intrusive business**. They have parents dropping children off at all different times, causing many traffic problems, as well as endangerment to the neighborhood children. One such child was almost run over by a hurried parent dropping their child off at the family care home.

Restrictive covenants are put into place to protect neighborhoods from such intrusive businesses for safety purposes as well as property values. If this bill passes, these homes could operate in any neighborhood, anywhere. There would be no way to regulate how many centers would open and where would the money come from as the budget is already restricted.

Please help us to stop this amendment from happening.

Thank you,

A handwritten signature in cursive script that reads "Donna & Wayne Barentine".

Donna and Wayne Barentine

April 21, 2001

Dear Representatives:

This hearing is very important to us! My husband has a commitment in Chicago and I have to help him drive as he is recovering from prostate cancer and a business trip to England or we would be here!

Ordinarily we would say we were opposed to HB1317. After living across from a business of Family Home Day Care we are **VEHEMENTLY** opposed to it.

In 1973 we moved into our home knowing there were covenants to protect us from a business, to mention one. The property was to be used for residential purposes only. Kids played in the street. They grew up and several moved back to raise their children when their parents moved out.

Playing in the street stopped in 1999 after the business of Family Home Day Care opened – increasing traffic and congestion in the morning and late afternoon.

Family Child Care Homes can be and are located in residences. No one disputes that. Our dispute is trying to make this bill into "public policy" and saying they should not be considered a business and are not accountable to covenants. There are residential areas that do not have covenants or do not enforce them.

For over a year there was either one car or one large pick-up truck parked half on the lawn of the day care house and half in the street across from my driveway. Most residential streets are not wide enough for this kind of parking. Until all of the children were dropped off the other employee would park in front also.

Each morning when leaving it was hazardous to pull out of our driveway with the worker's cars parked in front of the driveway and 10 parents' cars coming and going dropping off children. The same thing started all over again about 4 in the afternoon picking the children up. When parents were late dropping off or picking up some would speed.

There is **NO** comparison to Adult Care Homes – handicapped adults **LIVE** in those. They are not dropped off and picked up everyday creating traffic and congestion. Family Child Care Homes cannot say the same.

Please consider: **FAMILY CHILD CARE HOMES CAN GO INTO NEIGHBORHOODS WITH NO COVENANTS. WHERE DO WE AND YOUR CONSTITUENTS GO IF THIS BILL PASSES?**

Thank you for your time.

Sincerely,



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

1

HOUSE BILL 993

Short Title: TANF Cash Assistance/Waive Waiting Period.

(Public)

Sponsors: Representatives Earle; Wainwright and Luebke.

Referred to: Children, Youth and Families.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SOCIAL SERVICES COMMISSION TO WAIVE  
THE WAITING PERIOD FOR CERTAIN INDIVIDUALS TO REAPPLY FOR  
CASH ASSISTANCE UNDER THE STANDARD WORK FIRST PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. 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~~ this 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. Except as provided in subsection (c) of this section. ~~After~~ after having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after 36 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.

(c) The Social Services Commission may adopt rules applicable to Standard Program counties providing for the waiver of the 36-month waiting period required before the family may reapply for benefits. The waiver may be granted to families if:

- (1) The family has exhausted the 24 months of cash assistance and are subject to a 36-month waiting period requirement;
- (2) The family member who has exhausted the 24 months of cash assistance has been terminated from employment, and the termination was not the fault of the family member; and
- (3) The family member whose employment was terminated is not eligible for or has exhausted unemployment compensation."

1

SECTION 2. This act is effective when it becomes law.



CORRECTED NOTICE

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:** Tuesday, May 22, 2001

**TIME:** 12 noon

**LOCATION:** 605LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**Senate Bill 876 – Day Reporting Centers  
Bill Sponsor – Senator Scott Thomas**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices on May 17, 2001

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Senator Scott Thomas

**OFFICE:** Room 622 LOB

**NOTIFICATION DATE:** 5-17-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will  
meet as follows:**

**DAY & DATE:** 5-22-01

**TIME:** 12 NOON

**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**SB 876 - Day Reporting Centers**

We would like to have you attend this meeting.

Representative Boyd-McIntyre & Hunter  
Chairman

Barbara Phillips (Committee Assistant)

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 22 May 2001**

**12 noon**

**Room 605, Legislative Office Building**

The Committee on Children, Youth and Families met on Tuesday, 22 May 2001, at 12 noon in Room 605 of the Legislative Office Building. House members attending the meeting were Rep. Flossie Boyd-McIntyre, Chair, Edith Warren, Vice-Chair, Martha Alexander, Margaret Jeffus and Art Pope. Research staff counsel, Erika Churchill and Wendy Graf were also in attendance. The Agenda (Exhibit 1) and Visitor Registration Sheet (Exhibit 2) are attached hereto and incorporated into the minutes.

Rep. Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming committee members, staff and visitors. Pages in attendance were welcomed and asked to introduce themselves and their sponsoring member. The chair proceeded to acknowledge the Sergeant At Arms staff and Committee Assistant Mia Bailey.

The only item on the agenda was Senate Bill 876 – Day Reporting Centers (Exhibit 3), bill sponsor: Senator Scott Thomas. Rep. Alexander moved for adoption of the bill for the purpose of discussion.

Senator Thomas began the discussion of this bill by stating that its existence came about as a recommendation made the Bar Association. The Department of Juvenile Justice and Delinquency Prevention also supports the content of this bill.

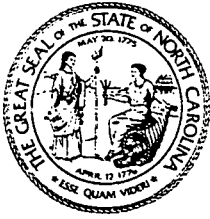
Senate Bill 876 provides that attendance at a day reporting center be a Level One disposition alternative for delinquent juveniles. Currently, the law states that based on the classification of an offense committed by a juvenile and also the juvenile's delinquency history, a juvenile will receive either a Level 1, Level 2, or Level 3 disposition.

Senator Thomas proceeded to discuss the Bill Analysis for SB 876 (Exhibit 4). Sen. Thomas, Larry Dix, a representative from the NC Bar Association and the Center for Juvenile Justice, and Committee Counsel, and Wendy Graf, answered questions from committee members.

Rep. Art Pope moved for a favorable report of the bill. The motion carried. With no other business before the committee, Rep. Boyd-McIntyre adjourned the meeting.

**Representative Flossie Boyd-McIntyre, Co-Chair Presiding**

**Mia D. Bailey, Committee Assistant**



# SENATE BILL 876: Day Reporting Centers

## BILL ANALYSIS

**Committee:** House Children, Youth, and Families

**Date:** May 22, 2001

**Version:** First Edition

**Introduced by:** Senator Thomas

**Summary by:** Wendy Graf  
Committee Counsel

**SUMMARY:** *Senate Bill 876 provides that attendance at a day reporting center be a Level One disposition alternative for delinquent juveniles.*

**CURRENT LAW:** Based on the classification of an offense committed by a juvenile and the juvenile's delinquency history, a juvenile will receive either a Level 1, Level 2, or Level 3 disposition.

Under current law, ordering a juvenile to participate in a supervised day program is a Level 2 dispositional alternative. A Level 2 disposition is ordered when a juvenile has committed a "Serious" offense or a "Violent" offense and has a low delinquency history. A "Serious" offense is defined as the adjudication of a Class F through I felony or a Class A1 misdemeanor. A "Violent" offense is defined as the adjudication of a Class A through E felony offense.

A Level 1 disposition is for "Minor" offenses (adjudication of a Class 1, 2, or 3 misdemeanor). A juvenile who receives a Level 1, or "Community Disposition", may be subject to any of the alternatives contained in (1) through (13) below as determined by the judge after assessing the juvenile's needs, the appropriate community resources available to meet those needs, and the protection of the public.

A juvenile who receives a Level 2, or "Intermediate Disposition", may be subject any of the alternatives contained in (1) through (23) below but must be subject to at least one alternative authorized in (13) through (23), which would currently include participation in a day program.

### **G.S. 7B-2506. Dispositional alternatives for delinquent juveniles.**

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
  - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state.
- (2) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
  - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.
- (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months.

# SENATE BILL 876

Page 2

- (4) Require restitution, full or partial, up to five hundred dollars (\$500.00), payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The court may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
- (5) Impose a fine related to the seriousness of the juvenile's offense. If the juvenile has the ability to pay the fine, it shall not exceed the maximum fine for the offense if committed by an adult.
- (6) Order the juvenile to perform up to 100 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months.
- (7) Order the juvenile to participate in the victim-offender reconciliation program.
- (8) Place the juvenile on probation under the supervision of a court counselor, as specified in G.S. 7B-2510.
- (9) Order that the juvenile shall not be licensed to operate a motor vehicle in the State of North Carolina for as long as the court retains jurisdiction over the juvenile or for any shorter period of time. The clerk of court shall notify the Division of Motor Vehicles of that order.
- (10) Impose a curfew upon the juvenile.
- (11) Order that the juvenile not associate with specified persons or be in specified places.
- (12) Impose confinement on an intermittent basis in an approved detention facility. Confinement shall be limited to not more than five 24-hour periods, the timing of which is determined by the court in its discretion.
- (13) Order the juvenile to cooperate with placement in a wilderness program.
- (14) Order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or in a group home other than a multipurpose group home operated by a State agency.
- (15) Place the juvenile on intensive probation under the supervision of a court counselor.
- (16) Order the juvenile to cooperate with a supervised day program requiring the juvenile to be present at a specified place for all or part of every day or of certain days. The court also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision.
- (17) Order the juvenile to participate in a regimented training program.
- (18) Order the juvenile to submit to house arrest.
- (19) Suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by the juvenile and specified in the dispositional order. The conditions shall not exceed the allowable dispositions for the level under which disposition is being imposed.
- (20) Order that the juvenile be confined in an approved juvenile detention facility for a term of up to 14 24-hour periods, which confinement shall not be imposed consecutively with intermittent confinement pursuant to subdivision (12) of this section at the same dispositional hearing. The timing of this confinement shall be determined by the court in its discretion.
- (21) Order the residential placement of a juvenile in a multipurpose group home operated by a State agency.
- (22) Require restitution of more than five hundred dollars (\$500.00), full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of an offense committed by the juvenile. The court may determine the amount, terms, and conditions of restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of the restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
- (23) Order the juvenile to perform up to 200 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense.

# SENATE BILL 876

Page 3

## **BILL ANALYSIS:** Senate Bill 876 does two things:

- It adds participation in a supervised day program as a possible dispositional alternative for juveniles who receive a Level 1 disposition. The ordering of this alternative would be within the discretion of the judge and would also still be available for a Level 2 disposition.
- It requires the court to consider the structure and operation of the program and whether it will meet the needs of the juvenile before ordering participation at a day program as a dispositional alternative.

**EFFECTIVE DATE:** This act becomes effective October 1, 2001 and applies to offenses committed on or after that date.

*This summary was substantially contributed to by Trina Griffin.*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

SENATE BILL 876

1

Short Title: Day Reporting Centers.

(Public)

Sponsors: Senator Thomas.

Referred to: Judiciary II.

April 4, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT ATTENDANCE AT A DAY REPORTING CENTER  
3 BE A LEVEL ONE DISPOSITION FOR DELINQUENT JUVENILES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7B-2508(c) reads as rewritten:

6 "(c) Level 1 - Community Disposition. - A court exercising jurisdiction over a  
7 juvenile who has been adjudicated delinquent and for whom the dispositional chart in  
8 subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation  
9 and treatment under G.S. 7B-2502 and for any of the dispositional alternatives  
10 contained in subdivisions (1) through (13) and (16) of G.S. 7B-2506. In determining  
11 which dispositional alternative is appropriate, the court shall consider the needs of the  
12 juvenile as indicated by the risk and needs assessment contained in the predisposition  
13 report, the appropriate community resources available to meet those needs, and the  
14 protection of the public."

15 SECTION 2. G.S. 7B-2506(16) reads as rewritten:

16 "(16) Order the juvenile to cooperate with a supervised day program  
17 requiring the juvenile to be present at a specified place for all or part of  
18 every day or of certain days. In determining whether to order a  
19 juvenile to a particular supervised day program, the court shall  
20 consider the structure and operations of the program and whether that  
21 program will meet the needs of the juvenile. The court also may  
22 require the juvenile to comply with any other reasonable conditions  
23 specified in the dispositional order that are designed to facilitate  
24 supervision."

25 SECTION 3. This act becomes effective October 1, 2001, and applies to  
26 offenses committed on or after that date.



**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Boyd-McIntyre and Hunter** (Chair/Chairs) for the Committee on  
**CHILDREN, YOUTH AND FAMILIES.**

---

☐ Committee Substitute for

S.B. 876 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT ATTENDANCE AT  
A DAY REPORTING CENTER BE A LEVEL ONE DISPOSITION FOR DELINQUENT  
JUVENILES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on  
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#       ), ☐ which changes the title,  
unfavorable as to (original bill) (Committee Substitute Bill #       ), (and recommendation  
that the committee substitute bill #       ) be re-referred to the Committee on       .)

☐ With a favorable report as to House committee substitute bill (#       ), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2001-2002 SESSION**

You are hereby notified that the Committee on **Children, Youth and Families** will meet as follows:

**DAY & DATE:**        **Tuesday, July 3, 2001**

**TIME:**                **12 noon**

**LOCATION:**           **605LOB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**Senate Bill 113 – Cabarrus Work Over Welfare**  
**Bill Sponsor – Senator Hartsell**

**Senate Bill 715 – DSS/Indian Affairs Collaboration**  
**Bill Sponsor – Senator W. Martin**

Respectfully,

Representative Howard Hunter  
Representative Flossie Boyd-McIntyre  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices

On June 27, 2001

\_\_\_\_ Principal Clerk

\_\_\_\_ Reading Clerk - House Chamber

Barbara Y. Phillips (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Senator W. Martin

**OFFICE:** Room 411 LOB

**NOTIFICATION DATE:** 6-27-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will meet as follows:**

**DAY & DATE:** 07-03-01

**TIME:** 12 NOON

**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**SB 715 - DSS/Indian Affairs Collaboration**

We would like to have you attend this meeting.

Representative Boyd-McIntyre & Hunter  
Chairman

Barbara Phillips and Mia Bailey (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2001-2002**

**BILL SPONSOR:** Senator Hartsell

**OFFICE:** Room 518 LOB

**NOTIFICATION DATE:** 6-27-01

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**The House Committee on CHILDREN, YOUTH AND FAMILIES will meet as follows:**

**DAY & DATE:** 07-03-01

**TIME:** 12 NOON

**LOCATION:** 605 LOB

Your Bill (or Bills) will be discussed at this time:  
**SB 113 -Cabarrus Work Over Welfare**

We would like to have you attend this meeting.

Representative Boyd-McIntyre & Hunter  
Chairman

Barbara Phillips and Mia Bailey (Committee Assistant)

## **AGENDA**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**.Rep. Flossie Boyd-McIntyre**

**Rep. Howard J. Hunter, Jr**

**Co – Chairs**

**July 3, 2001**

**12:00 pm**

**Introductions and Opening Remarks**

**Representative Flossie Boyd-McIntyre**

**Agenda Item:**

**SB – 113 – Cabarrus Work Over Walfare**

**Sponsor – Senator Hartsell**

**SB –715 – DSS/Indian Affairs Collaboration**

**Sponsor – Senator W. Martin**

**Adjournment**

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**Tuesday, 3 July 2001**

**12noon**

**Room 605, Legislative Office Building**

The Committee on Children, Youth and Families met on Tuesday, 3 July 2001, at 12 noon in Room 605 of the Legislative Office Building. House members attending the meeting were Representatives Flossie Boyd-McIntyre, Co-Chair, Howard Hunter, Co-Chair, Edith Warren, Vice-Chair, Martha Alexander, Margaret Jeffus, Mia Morris, Jeff Barnhart, Linda Johnson, Art Pope and Mary McAllister. Research staff counsel, Erika Churchill and Wendy Graf were also in attendance. The Agenda (Exhibit 1) and Visitor Registration Sheet (Exhibit 2) are attached hereto and incorporated into the minutes.

Rep. Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming committee members, staff and visitors. Pages in attendance were welcomed and asked to introduce themselves and their sponsoring member. The Chair proceeded to acknowledge the Sergeant At Arms staff and Committee Assistant, Mia Bailey.

There were two items on the agenda, SB 715 – DSS/Indian Affairs Collaboration (Exhibit 3) sponsored by Senator William Martin and SB 113- Cabarrus Work Over Welfare (Exhibit 4) sponsored by Senator Hartsell.

The Chair invited Senator Martin to come forth and present his bill to the committee. Sen. Martin provided the committee with Bill Summary sheets for SB 715 (Exhibit 5) which were distributed to the committee members and interested parties in attendance. Sen. Martin described his bill as a collaboration between the Division of Social Services, the Commission on Indian Affairs and other tribal counsels around the state as it pertains to the foster care and adoption of children of Indian heritage. The Senator briefly discussed the three basic mandates under the MEPA-IEP, (which can be found in greater detail in the Bill Summary Sheet for SB 715 (Exhibit 5)) in addition he gave background information as it relates to the MEPA-IEP. Rep. Warren moved for a favorable report. The motion carried. The bill was reported out favorably.

Rep. Boyd-McIntyre then invited Sen. Hartsell to come forth to present his bill. Rep. Jeffus moved for the adoption of the proposed committee substitute for the purpose of discussion. The motion carried without objection.

Sen. Hartsell explained that SB 113 extends the Cabarrus County Work Over Welfare Program to July 1, 2003 and thus allows Cabarrus County additional

flexibility in administering its Work First Program. The bill also makes substantive changes to the Cabarrus County Program. These changes are depicted on the Bill Summary Sheet for SB 133 in chart form (Exhibit 6).

Ms. Paula Wolf, Chief Lobbyist for the Covenant with North Carolina's Children, was recognized by the chair to relate her points of concern with SB 133 in its present form. Ms. Wolf contended that the bill was very harsh, promoting harsh work requirements and penalties on food stamp recipients. In addition, it is not apparent in the present form of the bill, subsidies for childcare. In conclusion Ms. Wolf described the bill to be very troubling and harsh to children and families that included children in particular.

Due to the issues surrounding Senate Bill 133, the Chair suggested that no action be taken on the bill, and it be continued until the next meeting.

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**Representative Flossie Boyd-McIntyre, Co-Chair Presiding**

---

**Mia D. Bailey, Committee Assistant**

**3 July 2001**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

2

SENATE BILL 113

Children and Human Resources Committee Substitute Adopted 3/22/01

Short Title: Cabarrus Work Over Welfare.

(Public)

Sponsors:

Referred to:

February 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE CABARRUS COUNTY WORK OVER WELFARE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1998-106 reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Health and Human Services shall ~~designate~~ continue designation of Cabarrus County as a pilot county for the purpose of conducting a demonstration ~~Workfare Program-welfare reform program~~ for certain Work First and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall ~~seek-ensure that~~ all federal waivers necessary to allow this demonstration ~~program-program to continue~~ are obtained. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. The Cabarrus County demonstration ~~Workfare-Work Over Welfare~~ Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment ~~program-program~~;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;



- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity ~~contract~~, agreement outlining the responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part time, subsidized or unsubsidized, as a condition for continued eligibility for Work First and Food Stamp assistance;
- (8) Require job search training of all participants;
- (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
- ~~(10) Provide child care by allowing Cabarrus County to use grant diversions, consisting of the child day care subsidies that would be paid to otherwise eligible recipients, and transportation as required;~~
- ~~(11)~~ (10) Create a positive work incentive by providing wage incentives to participants who are in compliance with the program, equal to the first thirty dollars (\$30.00) and one-third of the remainder of monthly gross income for a period of up to two years; program by using the job bonus as outlined in the Work First Policy Manual for both Work First and Food Stamp benefits;
- (12) ~~Provide enhanced Food Stamp benefits after participants are employed and are in program compliance by using the thirty dollar (\$30.00) and one-third of the remainder wage incentive as an income exemption;~~
- ~~(13)~~ (11) Provide (i) a pay for performance system that withholds the entire Work First benefits for the household for the month following any month in which it fails to comply with Work First participation requirements and restores these benefits for the month following any month in which it successfully complies with Work First participation requirements, and, to ensure that children in sanctioned households are not harmed, (ii) social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children, as necessary, during the period in which the household is sanctioned; for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in terminated households are not harmed, provide social

worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

(14) (12) ~~Provide automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program. Provide for all individuals to be evaluated for ongoing Medicaid any time Work First terminates.~~

(13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;

(14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;

(15) Provide that a recipient who is convicted of felony fraudulent misrepresentation under G.S. 108A-39(b) shall be permanently disqualified from participation in the Work First program;

(16) Provide that an applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;

(17) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;

(18) In ongoing Work First cases, require family reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation."

1       Sec. 3. This act shall be funded by Cabarrus County using ~~the available~~ grant  
2       diversions and administrative transfers, ~~transfers prescribed in Section 2 of this act,~~  
3       together with federal and State administrative funding allocated to Cabarrus County for  
4       the public assistance programs.

5       Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus  
6       County Demonstration Project and report to the General Assembly and to the Joint  
7       Legislative Public Assistance Commission on or before September 1, 1998-2002.

8       Sec. 5. This act becomes effective July 1, 1995 and shall expire on July 1,  
9       2001-2003."

10       **SECTION 2.** This act is effective when it becomes law.

**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Boyd-McIntyre and Hunter** (Chair/Chairs) for the Committee on  
**CHILDREN, YOUTH AND FAMILIES.**

---

☒ Committee Substitute for

S.B. 113 A BILL TO BE ENTITLED AN ACT TO EXTEND THE CABARRUS COUNTY  
WORK OVER WELFARE PROGRAM.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.
- ☐ With a favorable report as to committee substitute bill (# ), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill # ), (and recommendation that the committee substitute bill # ) be re-referred to the Committee on .)
- ☐ With a favorable report as to House committee substitute bill (# ), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S

1

SENATE BILL 715

Short Title: DSS/Indian Affairs Collaboration.

(Public)

Sponsors: Senators Martin of Guilford; Ballance and Weinstein.

Referred to: Children & Human Resources.

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE COLLABORATION BETWEEN THE DIVISION OF  
SOCIAL SERVICES AND THE COMMISSION OF INDIAN AFFAIRS AND  
THE NORTH CAROLINA DIRECTORS OF SOCIAL SERVICES  
ASSOCIATION ON INDIAN CHILD WELFARE ISSUES.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Division of Social Services, Department of Health and  
Human Services, shall work in collaboration with the Commission of Indian Affairs,  
Department of Administration, and the North Carolina Directors of Social Services  
Association to develop, in a manner consistent with federal law, an effective process  
through which the following can be accomplished:

- (1) Establishment of a relationship between the Division of Social  
Services and the Indian tribes set forth in G.S. 143B-407(a), either  
separately or through a central entity, that will enable these tribes, in  
general, and tribal councils or other tribal organizations, in particular,  
to receive reasonable notice of identified Indian children who are  
being placed in foster care or adoption or who otherwise enter the  
child protective services system, and to be consulted on policies and  
other matters pertinent to placement of Indian children in foster care or  
adoption.
- (2) Agreement on a process by which North Carolina Indians might be  
identified and recruited for purposes of becoming foster care and  
adoptive parents.
- (3) Agreement on a process by which the cultural, social, and historical  
prospective and significance associated with Indian life may be taught  
to appropriate child welfare workers and to foster and adoptive  
parents.

- 1 (4) Identification or formation of Indian child welfare advocacy,  
2 placement and training entities with which the Department of Health  
3 and Human Services might contract or otherwise form partnerships for  
4 the purpose of implementing the provisions of this act.
- 5 (5) Development of a valid and reliable process through which Indian  
6 children within the child welfare system can be identified.
- 7 (6) Identify the appropriate roles of the State and of Indian tribes,  
8 organizations and agencies to ensure successful means for securing the  
9 best interests of Indian children.

10 **SECTION 2.** This act is effective when it becomes law.

**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Boyd-McIntyre and Hunter** (Chair/Chairs) for the Committee on  
**Children, Youth and Families.**

---

- ☐ Committee Substitute for  
S.B. 715 A BILL TO BE ENTITLED AN ACT TO REQUIRE COLLABORATION  
BETWEEN THE DIVISION OF SOCIAL SERVICES AND THE COMMISSION OF  
INDIAN AFFAIRS AND THE NORTH CAROLINA DIRECTORS OF SOCIAL  
SERVICES ASSOCIATION ON INDIAN CHILD WELFARE ISSUES.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on  
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to committee substitute bill (#      ), ☐ which changes the title,  
unfavorable as to (original bill) (Committee Substitute Bill #      ), (and recommendation  
that the committee substitute bill #      ) be re-referred to the Committee on      .)
- ☐ With a favorable report as to House committee substitute bill (#      ), ☐ which changes  
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

## VISITOR REGISTRATION SHEET

## Children, Youth, Families

Name of Committee

7/3/01  
Date

Date \_\_\_\_\_

VISITORS:.. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

ERIC WILLIAMSON

## INTERN

KEN MELTON

Allen Associates, Inc.

Meg Tugraw

covenant w/ NL's children

Dania Wolf

Covenant w/ NC's children

Adam Green

$$NCHae$$

Kelvin Spragley

NCAE

Greg Petráček

N.C. Commissioner & Indian Affairs

Wanda Class

POA

Willert Mauer.

DHHS/DSS

Deborah Landrum

DHHS/OSS

LAN A DIAL

AO 2

DETCU

001/1A10

James H. Polk.

Cabarrus Co. DSS



NO NOTICES WERE SENT TO MEMBERS OR STAFF. NOTIFICATION OF  
MEETING WAS ANNOUNCED IN CHAMBER THE NIGHT BEFORE THE  
MEETING

## **AGENDA**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**.Rep. Flossie Boyd-McIntyre**

**Rep. Howard J. Hunter, Jr**

**Co – Chairs**

**July 17, 2001**

**12:00 pm**

**Introductions and Opening Remarks**

**Representative Flossie Boyd-McIntyre**

**Agenda Item:**

**SB – 113 – Cabarrus Work Over Welfare**

**Sponsor – Senator Hartsell**

**Adjournment**

## **MINUTES**

### **COMMITTEE ON CHILDREN, YOUTH AND FAMILIES**

**TUESDAY, JULY 17, 2001  
12 NOON**

The House Committee on Children, Youth and Families met on Tuesday, July 17, 2001 at 12 noon in Room 605 of the Legislative Office Building. House members present were: Representatives Martha Alexander, Flossie Boyd-McIntyre, Howard Hunter, Jeff Barnhart, Margaret Jeffus, Linda Johnson, and Mia Morris. Research staff counsel, Erika Churchill and Wendy Graf were also in attendance. The Agenda and Visitor Registration Sheet are attached.

Rep. Boyd-McIntyre presided and called the meeting to order. She began the meeting by welcoming committee members, staff and visitors. Pages in attendance were welcomed and introduced.

The item on the agenda was Senate Bill 113 – An Act to Extend the Cabarrus County Work Over Welfare Program, Bill Sponsor- Senator Hartsell. Rep. Alexander moved for adoption of the proposed committee substitute for discussion.

Senator Hartsell began the discussion by stating that this program has provided job opportunities for work first and food stamp recipients and has been very successful in Cabarrus County. He stated that some of the issues that arose at the last meeting were due to misunderstandings. He also stated that there were several employees from the Cabarrus County Department of Social Services in attendance, as well as program participants.

Mr. Cook, Mr. Polk and Ms. Green, employees of Cabarrus County DSS made comments about the program. The two participants, Ms. Crespo and Ms. Weaks, discussed how this program has helped them become more self-sufficient and gave information on the training and work opportunities that the program provides.

Ms. Ransome, NCDSS, stated that her office has reviewed the bill and they believe this bill has the safeguard that they need to ensure that children will be protected. The social workers will monitor the situation. She also pointed out that they had asked Sen. Hartsell to extend this current program to September 30, 2001 and let the new language in this bill take effect October 1, 2001, so that it will be on track with the other programs.

Rep. Hunter moved for a favorable report to the House committee substitute bill and unfavorable as to Senate Committee substitute bill. Without objection, the motion carried.

**With no other business before the committee, Rep. Boyd Mc-Intyre adjourned the meeting.**

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**Representative Flossie Boyd-McIntyre, Co-Chair Presiding**

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**Mia Bailey, Committee Assistant**

**Attachments**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

2

SENATE BILL 113

Children and Human Resources Committee Substitute Adopted 3/22/01

Short Title: Cabarrus Work Over Welfare.

(Public)

Sponsors:

Referred to:

February 12, 2001

A BILL TO BE ENTITLED  
AN ACT TO EXTEND THE CABARRUS COUNTY WORK OVER WELFARE  
PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1998-106 reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Health and Human Services shall ~~designate~~ continue designation of Cabarrus County as a pilot county for the purpose of conducting a demonstration ~~Workfare Program~~ welfare reform program for certain Work First and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall ~~seek~~ ensure that all federal waivers necessary to allow this demonstration ~~program~~ program to continue are obtained. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. The Cabarrus County demonstration ~~Workfare~~ Work Over Welfare Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment ~~program~~ program;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;

- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity ~~contract~~, agreement outlining the responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part time, subsidized or unsubsidized, as a condition for continued eligibility for Work First and Food Stamp assistance;
- (8) Require job search training of all participants;
- (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
- ~~(10) Provide child care by allowing Cabarrus County to use grant diversions, consisting of the child day care subsidies that would be paid to otherwise eligible recipients, and transportation as required;~~
- ~~(11) (10)~~ Create a positive work incentive by providing wage incentives to participants who are in compliance with the program, equal to the first thirty dollars (\$30.00) and one third of the remainder of monthly gross income for a period of up to two years; program by using the job bonus as outlined in the Work First Policy Manual for both Work First and Food Stamp benefits;
- ~~(12) Provide enhanced Food Stamp benefits after participants are employed and are in program compliance by using the thirty dollar (\$30.00) and one third of the remainder wage incentive as an income exemption;~~
- ~~(13) (11)~~ Provide: (i) a pay for performance system that withholds the entire Work First benefits for the household for the month following any month in which it fails to comply with Work First participation requirements and restores these benefits for the month following any month in which it successfully complies with Work First participation requirements, and, to ensure that children in sanctioned households are not harmed (ii) social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children, as necessary, during the period in which the household is sanctioned; for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in terminated households are not harmed, provide social

worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

(14) (12) ~~Provide automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program. Provide for all individuals to be evaluated for ongoing Medicaid any time Work First terminates.~~

(13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;

(14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;

(15) Provide that a recipient who is convicted of felony fraudulent misrepresentation under G.S. 108A-39(b) shall be permanently disqualified from participation in the Work First program;

(16) Provide that an applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;

(17) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;

(18) In ongoing Work First cases, require family reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation."

1       Sec. 3. This act shall be funded by Cabarrus County using ~~the available grant~~  
2       diversions and administrative transfers, ~~transfers prescribed in Section 2 of this act,~~  
3       together with federal and State administrative funding allocated to Cabarrus County for  
4       the public assistance programs.

5       Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus  
6       County Demonstration Project and report to the General Assembly and to the Joint  
7       Legislative Public Assistance Commission on or before September 1, ~~1998~~ 2002.

8       Sec. 5. This act becomes effective July 1, ~~1995~~ and shall expire on July 1,  
9       ~~2001~~ 2003."

10       **SECTION 2.** This act is effective when it becomes law.



7-17-01

**2001 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Boyd-McIntyre and Hunter** (Chair/Chairs) for the Committee on  
**Children, Youth and Families Committee.**

---

☒ Committee Substitute for

S.B. 113 A BILL TO BE ENTITLED AN ACT TO EXTEND THE CABARRUS COUNTY  
WORK OVER WELFARE PROGRAM

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on  
Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the  
Committee on Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (# ), ☐ which changes the title,  
unfavorable as to (original bill) (Committee Substitute Bill # ), (and recommendation  
that the committee substitute bill # ) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (~~# S113-PCS1215-ST-56~~), ☐  
~~which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

2

SENATE BILL 113

Children and Human Resources Committee Substitute  
Adopted 3/22/01

Short Title: Cabarrus Work Over Welfare.

(Public)

Sponsors:

Referred to:

February 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE CABARRUS COUNTY WORK OVER WELFARE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1998-106 reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Health and Human Services shall ~~designate~~ continue designation of Cabarrus County as a pilot county for the purpose of conducting a demonstration Workfare Program welfare reform program for certain Work First and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall ~~seek ensure that~~ all federal waivers necessary to allow this demonstration program program to continue are obtained.

To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. The Cabarrus County demonstration ~~Workfare~~ Work Over Welfare Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment ~~program program~~;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;
- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the

This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

~~(14)~~ (12) Provide

automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program. Provide for all individuals to be evaluated for ongoing Medicaid any time Work First terminates.

(13) Require that a recipient

who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;

(14) Require applicants for Work

First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;

(15) Provide that a recipient who

is convicted of felony fraudulent misrepresentation under G.S. 108A-39(b) shall be permanently disqualified from participation in the Work First program;

(16) Provide that an

applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200).

Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;

(17) Provide that the period of exemption from

participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;

(18) In ongoing Work First cases, require family

reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation."

This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

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(17) Provide that the period of exemption from

participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;

(18) In ongoing Work First cases, require family

reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation."

Sec. 3. This act shall be funded by Cabarrus County using ~~the available grant diversions and administrative transfers, transfers proscribed in Section 2 of this act,~~ together with federal and State administrative funding allocated to Cabarrus County for the public assistance programs.

Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus County Demonstration Project and report to the General Assembly and to the Joint Legislative Public Assistance Commission on or before September 1, ~~1998-2002.~~

~~Sec. 5. This act becomes effective July 1, 1995 and shall expire on July 1, 2001-2003."~~

**SECTION 2.** This act is effective when it becomes law.

# VISITOR REGISTRATION SHEET

Children, Youth + Families  
Name of Committee

7/17/01  
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

[illegible]

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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D

SENATE BILL 113

Children and Human Resources Committee Substitute Adopted 3/22/01  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S113-PCS1215-ST-56

Short Title: Cabarrus Work Over Welfare.

(Public)

Sponsors:

Referred to:

February 12, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO EXTEND THE CABARRUS COUNTY WORK OVER WELFARE  
3 PROGRAM.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Section 5 of S.L. 1998-106 reads as rewritten:

6 "Section 5. This act becomes effective July 1, 1995 and shall expire July 1,  
7 2001. September 30, 2001."

8 SECTION 2. S.L. 1998-106, as amended by Section 1 of this act, reads as  
9 rewritten:

10 "Section 1. Notwithstanding any law to the contrary, the Department of Health and  
11 Human Services shall ~~designate~~ continue designation of Cabarrus County as a pilot  
12 county for the purpose of conducting a demonstration ~~Workfare Program~~ welfare  
13 reform program for certain Work First and Food Stamp recipients. Immediately upon  
14 the ratification of this act, the Department shall ~~seek~~ ensure that all federal waivers  
15 necessary to allow this demonstration ~~program~~ program to continue are obtained. To the  
16 extent that this act or the program established pursuant to it conflicts with any State law,  
17 the program supersedes that law.

18 Sec. 2. The Cabarrus County demonstration ~~Workfare~~ Work Over Welfare Program  
19 for certain Work First and Food Stamp recipients shall:

- 20 (1) Provide job opportunities to all able-bodied Work First and Food  
21 Stamp recipients who are required to participate in the Work First  
22 employment ~~program~~ program;
- 23 (2) Create job opportunities in the public, the private, nonprofit, and the  
24 private, for-profit sector, primarily in the human services areas by  
25 allowing Cabarrus County to use grant diversions, consisting of the  
26 Work First benefits and the cash value of Food Stamps that would be  
27 paid to otherwise eligible recipients to match employer funds, to  
28 subsidize the employment of these recipients. Human service area jobs

- 1 will meet such socially necessary needs as day care work, nursing  
2 home aide work, and in-home aide work;
- 3 (3) Allow wages paid to these recipients, which contain grant-diverted  
4 funds, to be exempt from income for purposes of determining  
5 eligibility for assistance;
- 6 (4) Structure payment of wages to these recipients such that they will be  
7 considered income, in order to make recipients eligible for the federal  
8 earned income tax credit;
- 9 (5) Create work experience opportunities in the private sector more  
10 realistically to reflect the world of work;
- 11 (6) Require these recipients to participate in the development of an  
12 opportunity ~~contract~~, agreement outlining the responsibilities of the  
13 recipient and agency, as well as the incentives for compliance and the  
14 sanctions for noncompliance;
- 15 (7) Require all these recipients who participate in the program to pursue  
16 and accept employment, full or part time, subsidized or unsubsidized,  
17 as a condition for continued eligibility for Work First and Food Stamp  
18 assistance;
- 19 (8) Require job search training of all participants;
- 20 (9) Require monitored job search of all participants until employment is  
21 found or until other work activities of up to 40 hours per week are in  
22 place;
- 23 ~~(10) Provide child care by allowing Cabarrus County to use grant~~  
24 ~~diversions, consisting of the child day care subsidies that would be~~  
25 ~~paid to otherwise eligible recipients, and transportation as required;~~
- 26 ~~(11)~~ (10) Create a positive work incentive by providing wage incentives to  
27 participants who are in compliance with the program, equal to the first  
28 thirty dollars (\$30.00) and one third of the remainder of monthly gross  
29 income for a period of up to two years; program by using the job bonus  
30 as outlined in the Work First Policy Manual for both Work First and  
31 Food Stamp benefits;
- 32 (12) ~~Provide enhanced Food Stamp benefits after participants are employed~~  
33 ~~and are in program compliance by using the thirty dollar (\$30.00) and~~  
34 ~~one third of the remainder wage incentive as an income exemption;~~
- 35 ~~(13)~~ (11) Provide (i) ~~a pay for performance system that withholds the entire~~  
36 ~~Work First benefits for the household for the month following any~~  
37 ~~month in which it fails to comply with Work First participation~~  
38 ~~requirements and restores these benefits for the month following any~~  
39 ~~month in which it successfully complies with Work First participation~~  
40 ~~requirements, and, to ensure that children in sanctioned households are~~  
41 ~~not harmed, (ii) social worker monitoring and the use of direct vendor~~  
42 ~~payments or assistance from other community resources for rent,~~  
43 ~~utilities, or other basic needs of children, as necessary, during the~~



period in which the household is sanctioned; for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in terminated households are not harmed, provide social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

(14) (12) ~~Provide automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program.~~ Provide for all individuals to be evaluated for ongoing Medicaid and children to be evaluated for Health Choice eligibility any time Work First terminates. This act shall not alter any individual's eligibility for Medicaid or Health Choice as set out in State and Federal law or regulation.

(13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;

(14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;

(15) Provide that an applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;

(16) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;

1           (17) In ongoing Work First cases, require family reassessment of service  
2               needs when the family circumstance changes due to an able-bodied,  
3               financially responsible adult moving into the home. Family  
4               reassessment may result in benefit diversion, change in services, or  
5               termination from Work First program participation;

6           (18) Not sanction individuals who demonstrate that they cannot meet  
7               program requirements because necessary child care is not available.

8           Sec. 3. This act shall be funded by Cabarrus County using ~~the available~~ grant  
9           diversions and administrative transfers, ~~transfers prescribed in Section 2 of this act,~~  
10          together with federal and State administrative funding allocated to Cabarrus County for  
11          the public assistance programs.

12          Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus  
13          County Demonstration Project and report to the General Assembly and to the Joint  
14          Legislative Public Assistance Commission on or before September 1, ~~1998~~ 2002.

15          Sec. 5. This act becomes effective July 1, 1995 and shall expire on ~~July 1,~~  
16          ~~2001~~ September 30, 2003."

17          **SECTION 3.** This act is effective when it becomes law.