

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 132
Committee Substitute Favorable 3/10/21

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

(Public)

Sponsors:

Referred to:

February 24, 2021

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

The General Assembly of North Carolina enacts:

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

"§ 7B-101. Definitions.

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

...

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

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

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

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

...."

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

"§ 7B-1001. Right to appeal.

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

...

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

a. A parent who is a party and:



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

...."

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

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

...

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

...."

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

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

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

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

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

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

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

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

...."

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

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

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

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

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

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

...

(b) At the dispositional hearing or a subsequent hearing 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 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 receive treatment currently available from the area mental health program that serves the parent's catchment area.

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

...."

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

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

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

...

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

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

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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

...."

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

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