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SENATE BILL DRS15261-NB-73

Short Title: Child Welfare, Safety and Permanency Reforms. (Public)

Sponsors: Senators Krawiec, Jarvis, and Batch (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS AFFECTING JUVENILES AND
ASSOCIATED SERVICES.

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:

...

(13a) Judicial official. – A magistrate, clerk, judge, or justice of the General Court
of Justice.

...

(14a) Legal counsel for department. – An attorney representing the department in
proceedings under this Subchapter, regardless of whether the attorney is a
county attorney, department attorney, or contract attorney.

...."

SECTION 1.(b) This section is effective when it becomes law.

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

**"§ 7B-302. Assessment by director; military affiliation; access to confidential information;
notification of person making the report.**

...

(c) If the assessment indicates that abuse, neglect, or dependency has occurred, the
director shall decide whether immediate removal of the juvenile or any other juveniles in the
home is necessary for their protection. If immediate removal does not seem necessary, the
director shall immediately provide or arrange for protective services. If the parent, guardian,
custodian, or caretaker refuses to accept the protective services provided or arranged by the
director, the director shall sign a petition prepared by the legal counsel for the department seeking
to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

(d) If immediate removal seems necessary for the protection of the juvenile or other
juveniles in the home, the director shall sign a petition prepared by the legal counsel for the
department that alleges the applicable facts to invoke the jurisdiction of the court. Where the
assessment shows that it is warranted, a protective services worker may assume temporary
custody of the juvenile for the juvenile's protection pursuant to Article 5 of this Chapter.

...."

SECTION 2.(b) G.S. 7B-303 reads as rewritten:

"§ 7B-303. Interference with assessment.



* D R S 1 5 2 6 1 - N B - 7 3 *

(a) If any person obstructs or interferes with an assessment required by G.S. 7B-302, the director may file a petition prepared by the legal counsel for the department naming that person as respondent and requesting an order directing the respondent to cease the obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the assessment; shall include a concise statement of the basis for initiating the assessment, shall specifically describe the conduct alleged to constitute obstruction of or interference with the assessment; and shall be verified.

...

(c) Upon filing of the petition, the court shall schedule a hearing to be held not less than five days after service of the petition and summons on the respondent. Service of the petition and summons and notice of hearing shall be made as provided by the Rules of Civil Procedure on the respondent; the juvenile's parent, guardian, custodian, or caretaker; and any other person determined by the court to be a necessary party. If at the hearing on the petition the court finds by ~~clear, cogent, clear~~ and convincing evidence that the respondent, without lawful excuse, has obstructed or interfered with an assessment required by G.S. 7B-302, the court may order the respondent to cease such obstruction or interference. The burden of proof shall be on the petitioner.

...."

SECTION 2.(c) G.S. 7B-403 reads as rewritten:

"§ 7B-403. Receipt of reports; filing of petition.

(a) All reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be ~~drawn~~ prepared by the director, legal counsel for the department, signed by the director, and verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing.

(b) A decision of the director of social services not to file a report as a petition shall be reviewed by the prosecutor if review is requested pursuant to G.S. 7B-305."

SECTION 2.(d) This section becomes effective on January 1, 2024.

SECTION 3.(a) Article 3 of Subchapter I of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-302.1. Conflicts of interest.

(a) A conflict of interest shall exist when the reported abuse, neglect, or dependency involves any of the following:

(1) An employee of the county department of social services.

(2) A relative of an employee of the child welfare division of the county department of social services.

(3) A relative of an employee of the county department of social services outside of the child welfare division when, in the professional judgment of the director, the county department of social services has a conflict of interest.

(4) A foster parent supervised by the county department of social services.

(5) The county manager, an assistant county manager, a member of the Board of County Commissioners, or a member of the county's governing board for social services, as defined in G.S. 108A-1.

(6) A caretaker in a sole-source contract group home.

(7) A juvenile's parent, guardian, custodian, or caretaker who has been determined to be an incompetent adult and subject to guardianship under Chapter 35A of the General Statutes and is a ward, as defined in G.S. 35A-1101, of that county department of social services.

(8) A juvenile in the custody of the department who is also a parent or caretaker.

(9) A juvenile who is subject to a new report of abuse or neglect arising from events that occurred while in the custody of the department.

(10) A perceived conflict of interest that is identified through the professional judgment of the director of the county department of social services.

(b) The director of the county department of social services that receives the report where the conflict exists shall request that another county department conduct the assessment. The director shall notify the Division of Social Services of the Department of Health and Human Services of the conflict of interest and the county that accepted the report for assessment.

(c) If the director makes requests of two or more other counties, and if no other county is willing or able to accept the case for assessment, then the county director where the conflict exists shall notify the Division of Social Services of the Department of Health and Human Services. The Division shall evaluate the conflict and make the following determinations:

(1) Whether the county with the case conflict is able to manage the case by implementing measures to sufficiently obviate the conflict.

(2) If the Division determines the conflict cannot be managed in the county that receives the report, the Division shall appoint another county department that shall assume management of the case.

(3) The Division shall determine which county should bear the financial responsibility of the case when another county is appointed to manage the case.

(d) The county department of social services with the conflict of interest shall inform, in writing, the parent, guardian, custodian, or caretaker of the conflict and the county that assumes the management of the case. The written notice shall include the contact information for the complaint line at the Division of Social Services of the Department of Health and Human Services.

(e) If the county department of social services has a conflict of interest at the time of the report or any time while managing the case and the county department of social services does not refer the case to another county, a parent, guardian, custodian, caretaker, juvenile, or their representative may seek to have the case transferred to another county by contacting the complaint line at the Division of Social Services of the Department of Health and Human Services, and the Division of Social Services shall apply this section."

SECTION 3.(b) G.S. 7B-400(c) reads as rewritten:

"(c) For good cause, the court may grant a motion for a change of venue before adjudication. A pre-adjudication change of venue shall not affect the identity of the petitioner-petitioner, unless a conflict of interest arising under G.S. 7B-302.1 necessitates a substitution of parties."

SECTION 4. G.S. 7B-401.1 reads as rewritten:

"§ 7B-401.1. Parties.

...
(e1) ~~Foster Parent. — A foster parent as defined in G.S. 131D-10.2(9a) providing foster care for the juvenile is not a party to the case and may be allowed to intervene only if the foster parent has authority to file a petition to terminate the parental rights of the juvenile's parents pursuant to G.S. 7B-1103.~~

...
(h) Intervention. — Except as provided in ~~G.S. 7B-1103(b) and subsection (e1) of this section, G.S. 7B-1103(b),~~ the court shall not allow intervention by a person who is not the juvenile's parent, guardian, or ~~eustodian, but~~ custodian. The court may allow intervention by (i) a current caretaker or current foster parent, as defined in G.S. 131D-10.2(9a), providing care for the juvenile only if the current caretaker or current foster parent has authority to file a petition to terminate the parental rights of the juvenile's parents under G.S. 7B-1103, or (ii) another county department of social services that has an interest in the proceeding. This section shall not prohibit

the court from consolidating a juvenile proceeding with a civil action or claim for custody pursuant to G.S. 7B-200.

...."

SECTION 5.(a) G.S. 7B-502 reads as rewritten:

"§ 7B-502. Authority to issue custody orders; delegation.

(a) In the case of any juvenile alleged to be within the jurisdiction of the court, the court may order that the juvenile be placed in nonsecure custody pursuant to criteria set out in G.S. 7B-503 when custody of the juvenile is necessary. The order for nonsecure custody may be entered ex parte. Unless the petition is being filed pursuant to G.S. 7B-404, telephonic communication that the department will be seeking nonsecure custody shall be given to counsel, or if unavailable, to a partner or employee at the attorney's office when any of the following occur:

- (1) The department has received written notification that a respondent has counsel for the juvenile matter.
- (2) The respondent is represented by counsel in a juvenile proceeding within the same county involving another juvenile of the respondent.

Notice is not required to provisional counsel appointed pursuant to G.S. 7B-602.

(b) Any district court judge shall have the authority to issue nonsecure custody orders pursuant to ~~G.S. 7B-503.~~ G.S. 7B-503, once the action is commenced with the filing of a juvenile petition under G.S. 7B-405. The chief district court judge may delegate the court's authority to ~~persons other than district court judges any magistrate~~ by administrative order which shall be filed in the office of the clerk of superior court. ~~The administrative order shall specify which persons shall be contacted for approval of a nonsecure custody order pursuant to G.S. 7B-503.~~ Each county shall have available at all times a judge or delegated magistrate with whom the department may file a juvenile petition in order to seek nonsecure custody of a juvenile or juveniles."

SECTION 5.(b) This section is effective when it becomes law.

SECTION 6.(a) G.S. 7B-506 reads as rewritten:

"§ 7B-506. Hearing to determine need for continued nonsecure custody.

(a) No juvenile shall be held under a nonsecure custody order for more than seven calendar days without a hearing on the merits or a hearing to determine the need for continued custody. A hearing on nonsecure custody conducted under this subsection may be continued for up to 10 business days with the consent of the juvenile's parent, guardian, custodian, or caretaker and, if appointed, the juvenile's guardian ad litem. In addition, the court may require the consent of additional parties or may schedule the hearing on custody despite a party's consent to a continuance. In every case in which an order has been entered by ~~an official a magistrate~~ exercising authority delegated pursuant to G.S. 7B-502, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if such session precedes the expiration of the applicable time period set forth in this subsection: Provided, that if such session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

...."

SECTION 6.(b) This section is effective when it becomes law.

SECTION 7.(a) G.S. 7B-508 reads as rewritten:

"§ 7B-508. Telephonic communication authorized.

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-501, 7B-503, and 7B-504 may be made by telephone when other means of communication are impractical. A copy of the petition shall be provided to the judge or magistrate who is delegated authority by G.S. 7B-502 by any appropriate secure method, including hand delivery, fax, or encrypted electronic means. All written orders pursuant to telephonic

1 communication shall bear the name and the title of the person ~~communicating by telephone,~~
2 requesting and receiving telephonic approval, the name and title of the judge or magistrate
3 approving the initial nonsecure custody order, the signature and the title of the judicial official
4 entering the order, and the hour and the date of the authorization."

5 **SECTION 7.(b)** This section is effective when it becomes law.

6 **SECTION 8.** G.S. 7B-600 reads as rewritten:

7 **"§ 7B-600. Appointment of guardian.**

8 ...

9 (b) In any case where the court has determined that the appointment of a relative or other
10 suitable person as guardian of the person for a juvenile is the permanent plan for the juvenile and
11 appoints a guardian under this section, the guardian becomes a party to the proceeding. The court
12 may appoint co-guardians of the juvenile. The court may terminate the permanent guardianship
13 only if (i) the court finds that the relationship between the guardian and the juvenile is no longer
14 in the juvenile's best interest, (ii) the guardian is unfit, (iii) the guardian has neglected a guardian's
15 duties, ~~or~~ (iv) the guardian is unwilling or unable to continue assuming a guardian's ~~duties.~~ duties,
16 or (v) the circumstances of subsection (b2) of this section apply.

17 ...

18 (b2) When co-guardians have been appointed as the permanent plan for the juvenile and
19 the relationship between the permanent co-guardians dissolves, any party may file a motion under
20 G.S. 7B-906.1. The court shall consider the needs of the juvenile and enter an order addressing
21 the guardianship and whether it is in the best interest of the juvenile. The court may maintain the
22 juvenile's placement under review or order any disposition authorized by G.S. 7B-903. The court
23 may terminate the permanent guardianship of both or one of the co-guardians based on the
24 dissolution of the relationship of the co-guardians and the best interest of the juvenile. The court
25 may maintain the co-guardianship and modify the order to address physical and legal custody of
26 the juvenile, including placement, visitation, and decision making between the co-guardians. The
27 court shall consider whether custody rather than guardianship is in the juvenile's best interests
28 and, if so, enter an order pursuant to G.S. 7B-911.

29"

30 **SECTION 9.(a)** G.S. 7B-602 reads as rewritten:

31 **"§ 7B-602. Parent's right to counsel; guardian ad litem.**

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

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

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

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

48 (a1) A parent qualifying for appointed counsel may be permitted to proceed without the
49 assistance of counsel only after the court examines the parent and makes findings of fact
50 sufficient to show that the waiver is knowing and voluntary. The court's examination shall be
51 reported as provided in G.S. 7B-806.

(b) ~~In addition to the right to appointed counsel set forth above, The appointment of a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a under this section for any parent who is under the age of 18 years and who is not married or otherwise emancipated. The appointment of a guardian ad litem under this subsection shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event that the minor parent is the subject of a separate juvenile petition.~~

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17. A parent shall not be found to be incompetent solely due to the parent being an unemancipated minor.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

...."

SECTION 9.(b) Article 6 of Subchapter I of Chapter 7B of the General Statutes is amended by adding a new section to read:

"§ 7B-604. Legal counsel for department.

(a) The county department of social services shall be represented by legal counsel in proceedings governed by Subchapter I of this Chapter.

(b) Prior to representing the county department of social services in proceedings governed by this Subchapter, an attorney shall complete a minimum of six hours of training addressing State and federal child welfare law and procedures. Each of those attorneys shall annually complete a minimum of six hours of continuing legal education addressing child welfare law.

SECTION 9.(c) Section 9(b) becomes effective on January 1, 2024.

SECTION 10. G.S. 7B-903.1 reads as rewritten:

"§ 7B-903.1. Juvenile placed in custody of a department of social services.

...

(c) If a juvenile is removed from the home and placed in the custody or placement responsibility of a county department of social services, the director shall not allow unsupervised visitation with or return physical custody of the juvenile to the parent, guardian, custodian, or caretaker without a hearing at which the court finds that the juvenile will receive proper care and supervision in a safe home. Before a county department of social services may recommend unsupervised visits or return of physical custody of the ~~juvenile~~ juvenile, whichever occurs first, to the parent, guardian, custodian, or caretaker from whom the juvenile was removed, a county department of social services shall first observe that parent, guardian, custodian, or caretaker with the juvenile for at least two visits that support the recommendation. Each observation visit shall consist of an observation of not less than one hour with the juvenile, shall be conducted at least seven days apart, and shall occur within 30 days of the hearing at which the department of social services makes the recommendation. A department of social services shall provide documentation of any observation visits that it conducts to the court for its consideration as to whether unsupervised visits or physical ~~custody~~ custody, whichever occurs first, should be granted to the parent, guardian, custodian, or caretaker from whom the juvenile was removed.

...."

SECTION 11.(a) G.S. 7B-903.2 reads as rewritten:

"§ 7B-903.2. Emergency motion for placement and payment.

(a) If the requirements of G.S. 122C-142.2(b) through ~~(f)~~ (f1) are not satisfied, a party to the juvenile case, ~~the Department of Health and Human Services~~, the hospital where the juvenile is currently located, the local management entity/managed care organization, or the prepaid health plan may make a limited appearance for the sole purpose of filing a motion in the district

1 court in the county with jurisdiction over the juvenile in the abuse, neglect, and dependency
2 matter regarding the juvenile's continued stay in an emergency department or subsequent
3 admission at the hospital.

4 (b) The motion shall contain a specific description of the requirements of
5 G.S. 122C-142.2(b) through ~~(f)-(f1)~~ which were not satisfied.

6 (b1) Information regarding any failure of a hospital to cooperate in providing access to the
7 juvenile under G.S. 122C-142.2 may be provided to the court as evidence in a hearing on a
8 motion made under this section of a defense for the alleged violation by the county department
9 or local management entity/managed care organization or prepaid health plan.

10 (c) The motion shall be served on all parties to the juvenile proceeding pursuant to
11 G.S. 1A-1, Rule 5. The motion shall also be served upon the hospital where the juvenile is
12 receiving services, the local management entity/managed care organization or prepaid health plan
13 for the juvenile, and the Department of Health and Human ~~Services.~~ Services, in accordance with
14 G.S. 1A-1, Rule 4. The ~~hospital,~~ hospital and the local management entity/managed care
15 organization or prepaid health plan for the juvenile, and the ~~Department of Health and Human~~
16 Services, upon service of the motion, shall automatically become a party to the juvenile
17 proceeding for the limited purpose of participating in hearings held in relation to and for
18 complying with orders entered by the court pursuant to this section. The Department of Health
19 and Human Services, as supervising principal of the local county department of social services,
20 shall be provided the opportunity to be heard of any motion filed under this subsection.

21 ...

22 (e) ~~The~~ Within five business days of the filing of the motion, the motion shall be heard
23 in the district court with jurisdiction over the juvenile in the abuse, neglect, and dependency
24 matter. The rules of evidence in civil cases shall apply. Any person or party served with notice
25 of the motion pursuant to subsection (b) of this section may request to be heard by the court and
26 present evidence. The hearing shall be conducted in accordance with G.S. 7B-801.

27 (f) The court shall make written findings of fact and conclusions of law, including
28 whether:

29 (1) The movant established by clear and convincing evidence that ~~there is no~~
30 ~~medical necessity for the juvenile to remain in the hospital.~~ the juvenile met
31 hospital discharge criteria.

32 (2) The responsible party has not satisfied the requirements of
33 G.S. 122C-142.2(b) through ~~(f)-(f1)~~.

34 (g) When the court finds that there is clear and convincing evidence that ~~there is no~~
35 ~~medical necessity for the juvenile to remain in the hospital.~~ the juvenile has met hospital discharge
36 criteria and that the responsible party has not satisfied the requirements of G.S. 122C-142.2(b)
37 through ~~(f)-(f1)~~, the court may order any of the following:

38 (1) That the responsible party pay reasonable hospital charges of the juvenile's
39 continued ~~admission-stay~~ at the hospital. The reasonable charges shall be
40 limited to those incurred after the date ~~it was no longer medically necessary~~
41 ~~for the juvenile to remain in the hospital.~~ the juvenile met hospital discharge
42 criteria.

43 (2) That the responsible party pay for any damage to property caused by the
44 juvenile incurred after the date ~~it was no longer medically necessary for the~~
45 ~~juvenile to remain in the hospital.~~ the juvenile met hospital discharge criteria.

46 (3) That the responsible party satisfy the requirements of G.S. 122C-142.2(b)
47 through ~~(f)-(f1)~~.

48 (4) Any relief the court finds appropriate.

49 (h) The order shall be reduced to writing, signed, and entered no later than 72 hours
50 following the completion of the hearing. The clerk of court for juvenile matters shall schedule a
51 subsequent hearing for review within 30 days of entry of the order.

(i) If at any time after the motion is filed, the juvenile is discharged from the hospital and placed by the director, the court shall dismiss the motion. The dismissal shall not preclude a separate cause of action for monetary damages.

(j) All parties to the hearing shall bear their own costs."

SECTION 11.(b) This section is effective when it becomes law.

SECTION 12.(a) G.S. 7B-906.1 reads as rewritten:

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

(a) The court shall conduct a review or permanency planning hearing within 90 days from the date of the initial dispositional hearing held pursuant to G.S. 7B-901. Review or permanency planning hearings shall be held at least every six months thereafter. If custody has not been removed from a parent, guardian, ~~caretaker~~, or custodian, the hearing shall be designated as a review hearing. If custody has been removed from a parent, guardian, or custodian, or the juvenile was residing with a caretaker at the time the petition was filed, the hearing shall be designated as a permanency planning hearing.

...

(d) At each hearing, the court shall consider the following criteria and make written findings regarding those that are relevant:

...

(1a) Reports on the juvenile's continuation in the home of the parent, guardian, or custodian; and the appropriateness of the juvenile's continuation in that home. If the juvenile is removed from the custody of a parent, guardian, or custodian at a review hearing, the court shall schedule a permanency planning hearing within 30 days of the review, ~~unless the hearing was noticed and heard as a permanency planning hearing-review.~~

...

(d1) At any review hearing, the court may maintain the juvenile's placement under review or order a different placement, appoint an individual guardian of the person pursuant to G.S. 7B-600, or order any disposition authorized by G.S. 7B-903, including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile. An order that removes the juvenile from a parent, guardian, or custodian shall only be made if any of the following occur after the completion of the initial disposition or the prior review hearing:

(1) At least one factor under G.S. 7B-503(a)(1) through (a)(4) has occurred, or at least one factor specified in G.S. 7B-901(c) has occurred and the juvenile has experienced or is at substantial risk of experiencing physical or emotional harm as a result.

(2) The parent, guardian, or custodian consents to the order of removal.

(d2) Review hearings have the purpose of reviewing the progress of the parent, guardian, or custodian with their court-ordered services. The parent, guardian, or custodian shall complete court-ordered services within 12 months from the date of the filing of the petition, demonstrate that the circumstances precipitating the department's involvement with the family have been resolved to the satisfaction of the court, and provide a safe home for the juvenile. Absent extraordinary circumstances, when the parent, guardian, or custodian has successfully completed the court-ordered services and the juvenile is residing in a safe home, the court may waive further review hearings or shall terminate its jurisdiction in accordance with this subsection or G.S. 7B-911.

...

(i) ~~The~~ At any permanency planning hearing, the court may maintain the juvenile's placement under review or order a different placement, appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600, or order any disposition authorized by G.S. 7B-903, including

the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile.

...

(k) If at any time a juvenile has been removed from a parent and legal custody is awarded to either parent or findings are made in accordance with subsection (n) of this section, the court shall be relieved of the duty to conduct ~~periodic judicial reviews of the placement permanency planning review hearings~~. The court shall not refuse to conduct a permanency planning hearing if a party files a motion seeking the hearing.

(k1) The court shall not ~~waive or~~ refuse to conduct a review hearing if a party files a motion seeking the review ~~hearing and alleges a significant fact hearing~~.

(l) If the court orders or continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-903.1 shall apply to any order entered under this section.

...

(n) Notwithstanding other provisions of this Article, the court may waive the holding of permanency planning hearings required by this section, may require written reports to the court by the agency or person holding custody in lieu of permanency planning hearings, or order that permanency planning hearings be held less often than every six months if the court finds by ~~clear, cogent, clear~~ 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~~ the parties are in agreement 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 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 permanency planning or modification 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 hearing if a party files a motion seeking the 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 that guardianship is the permanent plan for the juvenile, the court shall ~~proceed in accordance with~~ apply the criteria of G.S. 7B-600(b).

(o) Permanency planning hearings under this section shall be replaced by post termination of parental rights' placement review hearings when required by G.S. 7B-908."

SECTION 12.(b) G.S. 7B-906.2 reads as rewritten:

"§ 7B-906.2. Permanent plans; concurrent planning.

(a) At any permanency planning hearing pursuant to G.S. 7B-906.1, the court shall adopt one or more of the following permanent plans the court finds is in the juvenile's best interest:

- (1) Reunification as defined by G.S. 7B-101.
- (2) Adoption under Article 3 of Chapter 48 of the General Statutes.
- (3) Guardianship pursuant to G.S. 7B-600(b).
- (4) Custody to a relative or other suitable person.
- (5) Another Planned Permanent Living Arrangement (APPLA) pursuant to G.S. 7B-912.
- (6) Reinstatement of parental rights pursuant to G.S. 7B-1114.

(a1) Concurrent planning shall continue until a permanent plan is or has been achieved.

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

(b1) Prior to any change in placement for the juvenile who has been residing with (i) a relative or (ii) a nonrelative caretaker when there are not relatives who are willing and able to provide proper care and supervision to the juvenile in a safe home for 12 consecutive months when the caretaker objects to the juvenile's removal, the department shall file a motion before the court when all of the criteria exist:

(1) The juvenile is in the custody of a county department of social services.

(2) The primary permanent plan is adoption.

(3) The current caretaker has notified the department of their desire to adopt the juvenile.

The court shall hold the hearing to review the change of placement within 10 days of the motion being filed. The clerk shall give notice of the hearing to the parties, the parties' attorneys, and the caretaker. The department of social services shall either provide to the clerk the name and address of the juvenile's caretaker for notice under this subsection or file written documentation with the clerk that the juvenile's current caretaker was sent notice of hearing. The court shall provide the caretaker the opportunity to address the court regarding the juvenile's well-being. Nothing in this subsection shall be construed to make the caretaker a party to the proceeding solely based on receiving notice and the right to be heard. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, or testimony or evidence from any person that is not a party, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile. At the hearing to review the change of placement, the court shall determine whether it is in the best interests of the juvenile to be removed. This subsection shall not apply to cases when there are allegations of abuse or neglect of the juvenile while under the care and supervision of the caretaker.

(c) Unless reunification efforts were previously ceased, at each permanency planning hearing the court shall make a finding about whether the reunification efforts of the county department of social services were reasonable. In every subsequent permanency planning hearing held pursuant to G.S. 7B-906.1, the court shall make written findings about the efforts the county department of social services has made toward the primary permanent plan and any secondary permanent plans in effect prior to the hearing. The court shall make a conclusion about whether efforts to finalize the permanent plan were reasonable to timely achieve permanence for the juvenile.

(d) At any permanency planning hearing under subsections (b) and (c) of this section, the court shall make written findings as to each of the following, which shall demonstrate the degree of success or failure toward reunification:

(1) Whether the parent is making adequate progress within a reasonable period of time under the plan.

(2) Whether the parent is actively participating in or cooperating with the plan, the department, and the guardian ad litem for the juvenile.

(3) Whether the parent remains available to the court, the department, and the guardian ad litem for the juvenile.

(4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.

(e) If the juvenile is 14 years of age or older, the court shall make written findings in accordance with G.S. 7B-912(a), regardless of the juvenile's permanent plan.

(f) When a permanent plan of guardianship or custody is achieved, the court shall advise the guardian or custodian of the right to seek child support after the order awarding permanent guardianship or custody has been entered."

SECTION 13.(a) G.S. 7B-904 reads as rewritten:

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

...

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

...."

SECTION 13.(b) G.S. 7B-1109 reads as rewritten:

"§ 7B-1109. Adjudicatory hearing on termination.

...

(f) The burden in such proceedings shall be upon the petitioner or movant and all findings of fact shall be based on ~~clear, cogent,~~ clear and convincing evidence. The rules of evidence in civil cases shall apply. No husband-wife or physician-patient privilege shall be grounds for excluding any evidence regarding the existence or nonexistence of any circumstance authorizing the termination of parental rights."

SECTION 13.(c) G.S. 7B-1111 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. For purposes of termination of parental rights, neglect shall include a biological or possible biological father of a child born out of wedlock who within three months of the child's birth or within 30 days of the discovery that the mother committed fraud in concealing her pregnancy or the child's birth, whichever is greater in time, has not made efforts to acknowledge or establish his paternity of the child and formed or attempted to form a relationship with the child.

...

~~(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 has for a continuous period of six months immediately preceding the filing of the petition or motion willfully failed 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 the 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, done any of the following:~~

a. ~~Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services. The petitioner or movant shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and the Department's certified reply shall be submitted to and considered by the court.~~

b. ~~Legitimated the juvenile pursuant to provisions of G.S. 49-10, G.S. 49-12.1, or filed a petition for this specific purpose.~~

c. ~~Legitimated the juvenile by marriage to the mother of the juvenile.~~

d. ~~Provided substantial financial support or consistent care with respect to the juvenile and mother.~~

e. ~~Established paternity through G.S. 49-14, 110-132, 130A-101, 130A-118, or other judicial proceeding.~~

...."

SECTION 13.(d) G.S. 7B-1114 reads as rewritten:

"§ 7B-1114. Reinstatement of parental rights.

(a) A juvenile whose parent's rights have been terminated, the guardian ad litem attorney, the parent whose rights have been terminated, or a county department of social services with custody of the juvenile may file a motion to reinstate the parent's rights if all of the following conditions are satisfied:

(1) The juvenile is at least 12 years of age or, if the juvenile is younger than 12, the motion alleges extraordinary circumstances requiring consideration of the motion.

(2) The juvenile does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time.

(3) The order terminating parental rights was entered at least three years before the filing of the motion, unless the court has found or the juvenile's attorney advocate and the county department of social services with custody of the juvenile stipulate that the juvenile's permanent plan is no longer adoption.

(b) If a motion could be filed under subsection (a) of this section and the parent whose rights have been terminated contacts the county department of social services with custody of the juvenile or the juvenile's guardian ad litem regarding reinstatement of the parent's rights, the department or the guardian ad litem shall notify the juvenile that the juvenile has a right to file a motion for reinstatement of parental rights.

(c) If a motion to reinstate parental rights is filed and the juvenile does not have a guardian ad litem appointed pursuant to G.S. 7B-601, the court shall appoint a guardian ad litem to represent the best interests of the juvenile. The appointment, duties, and payment of the guardian ad litem and the guardian ad litem attorney shall be the same as in G.S. 7B-601 and G.S. 7B-603.

(d) The party filing a motion to reinstate parental rights shall serve the motion on each of the following who is not the movant:

(1) The juvenile.

- (2) The juvenile's guardian ad litem or the guardian ad litem attorney.
- (3) The county department of social services with custody of the juvenile.
- (4) The former parent whose rights the motion seeks to have reinstated.

A former parent who is served under this subsection ~~is not a party to the proceeding and~~ is not entitled to appointed counsel but may retain counsel at the former parent's own expense.

(e) The movant shall ask the clerk to calendar the case for a preliminary hearing on the motion for reinstatement of parental rights within 60 days of the filing of the motion at a session of court scheduled for the hearing of juvenile matters. The movant shall give at least 15 days' notice of the hearing and state its purpose to the persons listed in subdivisions (d)(1) through (d)(4) of this section. In addition, the movant shall send a notice of the hearing to the juvenile's placement provider. Nothing in this section shall be construed to make the ~~former parent or the~~ juvenile's placement provider a party to the proceeding based solely on being served with the motion or receiving notice and the right to be heard.

(f) At least seven days before the preliminary hearing, the department of social services and the juvenile's guardian ad litem shall provide to the ~~court, court and the other parties, and the former parent parties~~ reports that address the factors specified in subsection (g) of this section.

...."

SECTION 13.(e) This section is effective when it becomes law and applies to any action filed or pending on or after that date.

SECTION 14.(a) G.S. 48-3-601 reads as rewritten:

"§ 48-3-601. Persons whose consent to adoption is required.

Unless consent is not required under G.S. 48-3-603, a petition to adopt a minor may be granted only if consent to the adoption has been executed by:

- (1) The minor to be adopted if 12 or more years of age;
- (2) In a direct placement, by:
 - a. The mother of the minor;
 - b. Any man who may or may not be the biological father of the minor but who:
 1. Is or was married to the mother of the minor if the minor was born during the marriage or within 280 days after the marriage is terminated or the parties have separated pursuant to a written separation agreement or an order of separation entered under Chapters 50 or 50B of the General Statutes or a similar order of separation entered by a court in another jurisdiction;
 2. Attempted to marry the mother of the minor before the minor's birth, by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the minor is born during the attempted marriage, or within 280 days after the attempted marriage is terminated by annulment, declaration of invalidity, divorce, or, in the absence of a judicial proceeding, by the cessation of cohabitation;
 3. Before the filing of the ~~petition~~, petition or within three months of the child's birth, whichever is greater, has legitimated the minor under the law of any state;
 4. Before the ~~earlier~~ greater of the filing of the ~~petition~~, petition, within three months of the child's birth, or within 30 days of the discovery that the mother committed fraud in identifying the father or withheld the known identity of the father, or the date of a hearing under G.S. 48-2-206, has acknowledged his paternity of the minor and

- I. Is obligated to support the minor under written agreement or by court order;
- II. Has ~~provided,~~ provided or attempted to provide, in accordance with his financial means, reasonable and consistent payments for the support of the biological mother during or after the term of pregnancy, or the support of the minor, or both, which may include the payment of medical expenses, living expenses, or other tangible means of support, and has regularly visited or communicated, or attempted to visit or communicate with the biological mother during or after the term of pregnancy, or with the minor, or with both; or
- III. After the minor's birth but before the minor's placement for adoption or the mother's relinquishment, has married or attempted to marry the mother of the minor by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; or

5. Before the filing of the ~~petition,~~ petition or within three months of the child's birth, has received the minor into his home and openly held out the minor as his biological child; or

6. Is the adoptive father of the minor; and

c. A guardian of the minor; and

(3) In an agency placement by:

a. The agency that placed the minor for adoption; and

b. Each individual described in subdivision (2) of this section who has not relinquished the minor pursuant to Part 7 of Article 3 of this Chapter."

SECTION 14.(b) This section is effective when it becomes law.

SECTION 15.(a) G.S. 122C-142.2 reads as rewritten:

"§ 122C-142.2. **Presentation at a hospital for mental health ~~treatment.~~treatment; assessment and placement upon discharge.**

(a) Definitions. – The following definitions apply in this section:

(1) Assessment. – A comprehensive clinical assessment, psychiatric evaluation, or a substantially equivalent assessment.

(2) Director. – The director of the county department of social services ~~in the county in which the juvenile resides or is found,~~ with custody of the juvenile, or the director's representative as authorized in G.S. 108A-14.

(3) Reserved for future codification purposes.

(4) Rapid Response Team. – A Department of Health and Human Services team of representatives from all of the following:

a. The Division of Child and Family Well-Being.

b. The Division of Health Benefits.

c. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

d. The Division of Social Services.

(b) If a juvenile in the custody of a department of social services presents to a hospital emergency department for mental health treatment, the hospital shall contact the director to notify the director of the juvenile's presentment to the emergency department. The director shall contact the appropriate LME/MCO or prepaid health plan within as soon as practicable and, in any event, no later than 24 hours of the determination that the juvenile should not remain at the hospital and

~~no appropriate placement is immediately available, juvenile's stay in the hospital~~ to request an assessment.

(c) Consistent with the care coordination responsibilities under G.S. 122C-115.4(b)(5), the LME/MCO or prepaid health plan must, when applicable or required by their contract with the Department, arrange for an assessment to be performed by either the juvenile's clinical home provider; the hospital, if able and willing; or other qualified licensed clinician within five business days 48 hours following notification under subsection (b) of this section from the director. The hospital shall cooperate with the LME/MCO or prepaid health plan to provide access to the juvenile during the juvenile's stay in the hospital.

(d) Based on the findings and recommendations of ~~the assessment~~, an assessment conducted as required by this section, all of the following must occur:

(1) If the comprehensive clinical assessment recommends a traditional foster home or a Level I group home, the director shall identify and provide the placement within five business days. The county department of social services shall be responsible for transporting the juvenile to the identified placement ~~within as soon as practicable but no later than~~ five business days.

(2) If the assessment recommends a level of care requiring prior authorization by the LME/MCO or prepaid health plan, the LME/MCO or prepaid health plan shall authorize an appropriate level of care and identify appropriate providers within five business days and assign a care ~~coordinator-manager~~ for the duration that the LME/MCO or prepaid health plan provides services to the juvenile. Once an appropriate level of care has been authorized and providers identified, the director shall place the juvenile in the appropriate placement ~~within as soon as practicable but no later than~~ five business days. The county department of social services shall be responsible for transporting the juvenile to the identified placement.

(d1) The hospital shall not release the juvenile unless at least one of the following conditions exists:

(1) The juvenile meets hospital discharge criteria.

(2) The placement as recommended by the assessment is available.

(3) The consent of the individual or director authorized to consent to treatment pursuant to G.S. 7B-505.1.

(e) The county department of social services shall provide ongoing case management, virtually or in person, to address the juvenile's educational and social needs during the juvenile's stay in the hospital. The hospital shall cooperate with the county department of social services to provide access to the juvenile during the juvenile's stay in the hospital.

(f) ~~If, on~~ The director, an LME/MCO, or a prepaid health plan shall notify the Rapid Response Team of any of the following circumstances:

(1) After completion of the assessment, the director under subdivision (d)(1) of this section or the LME/MCO or prepaid health plan under subdivision (d)(2) of this section is anticipates being unable to identify an appropriate available placement or treatment provider for the juvenile, or if the juvenile.

(2) The assessment recommendations differ, the director shall immediately notify the Department of Health and Human Services' Rapid Response Team. differ from the preferences of the individual or director authorized to consent to treatment pursuant to G.S. 7B-505.1 or from services readily available.

(3) There are delays in accessing needed behavioral health assessments.

(4) The juvenile has been released from the hospital in violation of subsection (d1) of this section.

(f1) ~~The director, pursuant to G.S. 7B-302(a1)(1), is~~ G.S. 7B-302(a1)(1) and the LME/MCO, or the prepaid health plan, are authorized to disclose confidential information to the

Rapid Response Team to ensure the juvenile is protected from abuse or neglect and for the provision of protective services to the juvenile. All confidential information disclosed to the Rapid Response Team shall remain confidential, shall not be further redisclosed unless authorized by State or federal law or regulations, and shall not be considered a public record. Notification to the Rapid Response Team does not relieve the director, LME/MCO, prepaid health plan, or any other entity from carrying out their responsibilities to the juvenile.

(g) ~~The Rapid Response Team shall be comprised of representatives of the Department of Health and Human Services from the Division of Social Services; the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services; and the Division of Health Benefits.~~ Upon receipt of a notification from a director, made in accordance with subsection (f) of this section, the Rapid Response Team shall evaluate the information provided ~~and coordinate a response to determine if action from the Rapid Response Team is necessary to address the immediate needs of the juvenile, which may include any of the following:~~ juvenile. If action is necessary, the Rapid Response Team shall develop a plan with the LME/MCO or prepaid health plan regarding the steps needed to meet the treatment needs of the juvenile. Any plan shall include the means by which to monitor the implementation of the plan.

(1) ~~Identifying an appropriate level of care for the juvenile.~~

(2) ~~Identifying appropriate providers or other placement for the juvenile.~~

(3) ~~Making a referral to qualified services providers.~~

(4) ~~Developing an action plan to ensure the needs of the juvenile are met.~~

(5) ~~Developing a plan to ensure that relevant parties carry out any responsibilities to the juvenile.~~

(h) Meetings of the Rapid Response Team convened under this section shall be limited to members of the Rapid Response Team and individuals from the relevant county department of social services, LME/MCOs, and prepaid health plans that are invited by the Rapid Response Team. The meetings of the Rapid Response Team shall not be open to the public. Subsection (f1) of this section shall apply to any information gathered for the meeting. Information shared at the meeting or documents created during the course of the meetings or during the course of evaluating and developing any response in accordance with subsection (g) of this section shall not be public record and shall not be disclosed or redisclosed unless authorized under State or federal law.

(i) The LME/MCO or prepaid health plan shall notify monthly the Division of Social Services of the Department of Health and Human Services of all of the following information:

(1) The number of county department of social services notifications of assessments.

(2) The length of time to find placement for the juvenile.

(3) The number of recommendations at each level of care."

SECTION 15.(b) This section is effective when it becomes law.

SECTION 16.(a) This section shall be entitled "Christal's Law."

SECTION 16.(b) G.S. 108A-74 reads as rewritten:

"§ 108A-74. Counties and regional social services departments required to enter into annual written agreement for all social services programs other than medical assistance; local department failure to comply with the written agreement or applicable law; corrective action; State intervention in or control of service delivery.

...

(a5) Except where prohibited by federal law and notwithstanding other applicable State law, the Secretary shall have access to records and information pertaining to any open or closed child welfare case of the department of social services, to inquire into and review any county social work practice, or inquire into and review the legal representation of the county or regional department of social services as it pertains to the delivery of child welfare services for a particular

child welfare case or all child welfare cases of the department of social services. This authority may be exercised by the Secretary as part of regular monitoring of the performance of a department of social services, or in response to complaints received by the Department regarding either of the following:

- (1) A juvenile who has been the subject of a report of abuse, neglect, or dependency pursuant to G.S. 7B-301 within the previous 12 months.
- (2) A case in which the juvenile or the juvenile's family was a recipient of child welfare services within the previous 12 months.

If the Secretary finds violations of State law or applicable rules occurring in any specific case or cases, the Secretary shall notify the board of county commissioners, the county manager, and the board of social services and direct the director of social services to remedy the violation by taking immediate action in a manner prescribed by the Secretary that is consistent with State law and applicable rules. Nothing contained herein shall prohibit the Secretary from exercising any other authority under this section.

...."

SECTION 16.(c) This section is effective when it becomes law.

SECTION 17.(a) Chapter 48 of the General Statutes reads as rewritten:

"Chapter 48.

"Adoptions.

"Article 1.

"General Provisions.

"§ 48-1-100. Legislative findings and intent; construction of Chapter.

...

"§ 48-1-101. Definitions.

In this Chapter, the following definitions apply:

...

(13a) "Post-adoption contact agreement and order" means a voluntary written agreement that is approved by a district court judge and incorporated into a district court order that allows specifically described post-adoption contact including visitation, sharing of information, and communication such as the exchange of letters, electronic communication, and telephone contact.

...

"§ 48-1-106. Legal effect of decree of adoption.

...

(c) A decree of adoption severs the relationship of parent and child between the individual adopted and that individual's biological or previous adoptive parents. After the entry of a decree of adoption, the former parents are relieved of all legal duties and obligations due from them to the adoptee, except that a former parent's duty to make past-due payments for child support is not terminated, and the former parents are divested of all rights with respect to the adoptee. If applicable, a former parent may exercise rights established in a post-adoption contact agreement and order.

...

"§ 48-2-100. Jurisdiction.

(a) Adoption shall be by a special proceeding before the clerk of superior court.

(a1) The district court shall have jurisdiction over post-adoption contact agreements and orders.

...

"§ 48-2-102. Transfer, stay, or dismissal.

...

(b) If an adoptee is also the subject of a pending proceeding under Chapter 7B of the General Statutes, then the district court having jurisdiction under Chapter 7B shall retain

jurisdiction until the final order of adoption is ~~entered~~, entered, except that the district court shall retain jurisdiction after the final order of adoption is entered if there is a post-adoption contact agreement and order pursuant to G.S. 48-3-708. The district court may waive jurisdiction for good cause.

...

"§ 48-2-607. Appeals.

(a) Except as provided in subsections (b) and (c) of this section, after the final order of adoption is entered, no party to an adoption proceeding nor anyone claiming under such a party may question the validity of the adoption because of any defect or irregularity, jurisdictional or otherwise, in the proceeding, but shall be fully bound by the order. No adoption may be attacked either directly or collaterally because of any procedural or other defect by anyone who was not a party to the adoption. The failure on the part of the court or an agency to perform duties or acts within the time required by the provisions of this Chapter shall not affect the validity of any adoption proceeding. The failure of an adoptive parent, former parent, or the adoptee to follow the terms of a post-adoption contact agreement and order shall not be grounds for setting aside a final order of adoption.

...

"§ 48-3-702. Procedures for relinquishment.

...

(b1) An individual before whom a relinquishment is signed and acknowledged under subsection (a) of this section shall certify in writing that to the best of the individual's knowledge or belief, the parent, guardian, or minor to be adopted executing the relinquishment has met each of the following:

...

(3) Been given an original or copy of his or her fully executed ~~relinquishment~~, relinquishment, and, if applicable, the post-adoption contact agreement and order.

...

"§ 48-3-703. Content of relinquishment; mandatory provisions.

(a) A relinquishment executed by a parent or guardian under G.S. 48-3-701 must be in writing and state the following:

...

(8) That the individual executing the relinquishment understands that when the adoption is final, all rights and duties of the individual executing the relinquishment with respect to the minor will be extinguished and all other aspects of the legal relationship between the minor child and the parent will be ~~terminated~~, terminated, except for rights and duties contained in a post-adoption contact agreement and order entered pursuant to G.S. 48-3-708.

...

"§ 48-3-705. Consequences of relinquishment.

...

(c) A relinquishment terminates:

(1) Any right and duty of the individual who executed the relinquishment with respect to the legal and physical custody of the ~~minor~~, minor, except those rights and duties contained in a post-adoption contact agreement and order entered pursuant to G.S. 48-3-708.

...

"§ 48-3-706. Revocation of relinquishments.

...

(c1) If a person other than a person described in subsection (b) of this section is a party to a post-adoption contact agreement and revokes a relinquishment, the post-adoption contact agreement and order are void.

...

"§ 48-3-708. Post-adoption contact agreements and orders.

(a) Prior to executing a relinquishment, the parent or parents of a minor adoptee and the prospective adoptive parent or parents may voluntarily participate in a court-approved mediation program to reach a voluntarily mediated post-adoption contact agreement. A biological parent who has not reached 18 years of age shall have legal capacity to enter a post-adoption contact agreement and shall be as fully bound by the agreement as if the biological parent had attained 18 years of age.

(b) The Administrative Office of the Courts shall develop and make available appropriate forms for implementation of this section.

(c) Venue for approval and enforcement of such agreement shall be before the district court having jurisdiction under Chapter 7B of the General Statutes.

(d) Other people may be invited to participate in the mediation by mutual consent of the parent(s) executing a relinquishment and the prospective adoptive parent(s). However, these invitees shall not be parties to any agreement reached during that mediation and shall not receive copies of any agreement.

(e) Mediation proceedings and information relating to those proceedings under this subsection shall be confidential. Information or the statements of any person participating in the mediation shall not be disclosed or used in any subsequent proceeding. Regardless, evidence that would otherwise be admissible at trial shall not be rendered inadmissible as a result of its use in a mediation proceeding. There shall be no record made of any mediation proceedings under this subsection, and the mediator shall destroy all of his or her notes immediately after the mediation.

(f) The voluntarily mediated agreement shall be reviewed by the court to determine whether the agreement should be incorporated into a court order. Only persons who executed the post-adoption contact agreement are parties to the action and the court shall not allow intervention by any other person. The parties shall not be entitled to the appointment of counsel. The court shall close the hearing to all persons, except the parties, their attorneys, and any witnesses. The court shall approve the voluntarily mediated agreement if the court determines that:

(1) The agreement is in the best interests of the child. In making this determination, factors that the court may consider include, but are not limited to:

a. The length of time that the child has been under the actual care, custody, and control of any person other than a birth parent and the circumstances relating thereto.

b. The interaction and interrelationship of the child with birth parents, siblings, and any other person who may significantly affect the child's best interests.

c. The impact on the child's home, school, and community.

d. The willingness and ability of the birth parents to respect and appreciate the bond between the child and the prospective adoptive parents.

e. The willingness and ability of the prospective adoptive parents to respect and appreciate the bond between the child and the parent(s) who executed a relinquishment.

(2) The agreement has been entered into knowingly and voluntarily by all parties. An affidavit made under oath shall accompany the agreement affirmatively stating that the agreement was entered into knowingly and voluntarily and is

- 1 not the product of coercion, fraud, or duress. The affidavit may be executed
2 jointly or separately.
- 3 (g) To be approved by the court, a voluntarily mediated agreement shall contain the
4 following statements:
- 5 (1) This agreement is entered into pursuant to the provisions of this section.
6 (2) Any breach, modification, or invalidation of the agreement, or any part of it,
7 shall not affect the validity of the relinquishment or the final decree of
8 adoption.
- 9 (3) The parties acknowledge that either the birth or prospective adoptive parents
10 who have entered into the agreement have the right to seek enforcement as set
11 forth in this section.
- 12 (4) The parties have not relied on any representations other than those contained
13 in the agreement. The agreement shall be signed by the parties and
14 acknowledged before a notary public as the free act and deed of the parties.
- 15 (h) To be enforceable, a voluntarily mediated agreement shall be:
- 16 (1) In writing.
17 (2) Approved by the court prior to relinquishment.
18 (3) Incorporated but not merged into any adoption decree and shall survive as an
19 independent agreement.
- 20 (i) A voluntarily mediated agreement shall cease to be enforceable on the date the child
21 turns 18 years of age or is otherwise emancipated. The court issuing final approval of the
22 agreement shall have continuing jurisdiction over enforcement of the agreement until the child
23 reaches the age of 18 or is otherwise emancipated.
- 24 (j) A party to a court-approved voluntarily mediated agreement may seek to modify,
25 enforce, or discontinue the agreement by filing a motion for review in the court that approved the
26 underlying agreement. Issues set forth in the motion for review shall be set for mediation unless
27 the court waives mediation for good cause. A court order for modification, enforcement, or
28 discontinuance of the terms of the voluntarily mediated agreement shall be the sole remedies for
29 breach of the agreement.
- 30 (1) In a proceeding under this subsection, the persons who executed the
31 post-adoption contact agreement are the sole parties to the action. The court
32 shall not allow intervention by any other person. The parties shall not be
33 entitled to the appointment of counsel.
- 34 (2) The court may modify the terms of the voluntarily mediated agreement if the
35 court finds by a preponderance of the evidence that there has been a material
36 and substantial change in the circumstances and that the modification is in the
37 best interests of the child. A court-imposed modification of a previously
38 approved agreement may limit, restrict, condition, decrease, or discontinue the
39 sharing of information and/or contact between the former parent or parents
40 and the child, but in no event shall a court-imposed modification serve to
41 expand, enlarge, or increase the amount of contact between the birth parent or
42 parents and the child or place new obligations on the parties to the agreement.
43 The court also may impose appropriate sanctions consistent with its equitable
44 powers but not inconsistent with this section, including the power to issue
45 restraining orders.
- 46 (3) If the court finds that an action brought under this subsection was wholly
47 insubstantial, frivolous, and not advanced in good faith, the court may award
48 attorneys' fees and costs to the prevailing parties.
- 49 (k) Nothing contained herein shall be construed to abrogate the rights of the adoptive
50 parents to make decisions on behalf of the child, except as provided in the court-approved
51 voluntarily mediated agreement.

1 ...

2 **"§ 48-9-102. Records confidential and sealed.**

3 ...

4 (b) During a proceeding for adoption, ~~records~~ records, excluding a post-adoption contact
5 agreement, shall not be open to inspection by any person except upon an order of the court finding
6 that disclosure is necessary to protect the interest of the adoptee. A post-adoption contact
7 agreement shall not be open to inspection by any person other than the parties to the post-adoption
8 contact agreement, or their attorney(s), pending review by the district court to determine whether
9 the agreement should be incorporated into a court order.

10"

11 **SECTION 17.(b)** G.S. 7B-401.1 reads as rewritten:

12 **"§ 7B-401.1. Parties.**

13 ...

14 (b) Parents. – The juvenile's parent shall be a party unless one of the following applies:

15 ...

16 (2) The parent has relinquished the juvenile for adoption, unless the court (i) has
17 entered a post-adoption contact agreement and order pursuant to
18 G.S. 48-3-708 or (ii) otherwise orders that the parent be made a party.

19"

20 **SECTION 17.(c)** G.S. 7B-908 reads as rewritten:

21 **"§ 7B-908. Post termination of parental rights' placement court review.**

22 ...

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

30 (1) No more than 30 days and no less than 15 days prior to each review, the clerk
31 shall give notice of the review to the juvenile if the juvenile is at least 12 years
32 of age, the legal custodian or guardian of the juvenile, the person providing
33 care for the juvenile, the guardian ad litem, if any, any parent who has
34 relinquished the juvenile for adoption and there is a post-adoption contact
35 agreement and order pursuant to G.S. 48-3-708, and any other person or
36 agency the court may specify. The department of social services shall either
37 provide to the clerk the name and address of the person providing care for the
38 child for notice under this subsection or file written documentation with the
39 clerk that the child's current care provider was sent notice of hearing. Only the
40 juvenile, the legal custodian or guardian of the juvenile, the person providing
41 care for the juvenile, and the guardian ad litem-litem, and any parent who has
42 relinquished the juvenile for adoption and there is a post-adoption contact
43 agreement and order pursuant to G.S. 48-3-708 may participate in the review
44 hearings, except as otherwise directed by the court. Nothing in this subdivision
45 shall be construed to make the person a party to the proceeding solely based
46 on receiving notice and the right to be heard. Any individual whose parental
47 rights have been terminated or has executed a relinquishment that is no longer
48 revocable shall not be considered a party to the proceeding unless an appeal
49 of the order terminating parental rights is pending, and a court has stayed the
50 order pending the appeal.

51"

1 **SECTION 18.(a)** G.S. 7B-323(e) reads as rewritten:

2 "(e) Notwithstanding any time limitations contained in this section or the provisions of
3 G.S. 7B-324(a)(4), upon the filing of a petition for judicial review by an individual identified by
4 a director as a responsible individual, the district court of the county in which the abuse or neglect
5 report arose may review a director's determination of abuse or serious neglect ~~at any time if less~~
6 than one year has passed since the person's placement on the responsible individuals list and if
7 the review serves the interests of justice or for extraordinary circumstances, other good cause. If
8 the district court undertakes such a review, a hearing shall be held pursuant to this section at
9 which the director shall have the burden of establishing by a preponderance of the evidence abuse
10 or serious neglect and the identification of the individual seeking judicial review as a responsible
11 individual. If the court concludes that the director has not established by a preponderance of the
12 evidence abuse or serious neglect or the identification of the responsible individual, the court
13 shall reverse the director's determination and order the director to expunge the individual's name
14 from the responsible individuals list."

15 **SECTION 18.(b)** Chapter 7B of the General Statutes is amended by adding a new
16 section to read:

17 **"§ 7B-325. Petition for expungement.**

18 (a) Notwithstanding any time limitations contained in this section or the provisions of
19 G.S. 7B-324, a person whose name has been placed on the responsible individuals list may file a
20 petition for expungement of the individual's name from the responsible individuals list if the
21 following conditions are satisfied:

- 22 (1) At least one year has passed since the person was placed on the responsible
23 individuals list without judicial review, though eligible for review.
24 (2) At least three years have passed since the person was placed on the responsible
25 individuals list after judicial review.
26 (3) At least five years have passed since the person, who was criminally convicted
27 as a result of the same incident that placed the person on the responsible
28 individuals list completed their sentence, complied with all post-release
29 conditions and has not subsequently been convicted of any felony or
30 misdemeanor other than a traffic violation under the laws of the United States
31 or the laws of this State or any other state. No person is eligible to petition for
32 expungement under this subsection if the conviction is related to sexual abuse
33 of a child, human trafficking, or a child fatality related to abuse or neglect.

34 (b) The petition for expungement shall be filed with the district court of the county in
35 which the abuse or serious neglect report arose. A copy shall be delivered in person or by certified
36 mail, return receipt requested, to the director of the county department of social services of that
37 county. The petition for expungement shall contain the name, date of birth, and address of the
38 individual seeking expungement, the name of the juvenile who was the subject of the
39 determination of abuse or serious neglect, and facts that invoke the jurisdiction of the court.

40 (c) The clerk of court shall maintain a separate docket for expungement actions. Upon
41 the filing of a petition for expungement, the clerk shall calendar the matter for hearing within 45
42 days from the date the petition is filed at a session of district court hearing juvenile matters or, if
43 there is no such session, at the next session of juvenile court. The clerk shall send notice of the
44 hearing to the petitioner and to the director of the county department of social services that
45 determined the abuse or serious neglect and identified the individual as a responsible individual.
46 Upon the request of a party, the court shall close the hearing to all persons, except officers of the
47 court, the parties, and their witnesses. The hearing shall be before a judge without a jury. The
48 court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801,
49 or testimony or evidence from any person that is not a party, that the court finds to be relevant,
50 reliable, and necessary.

51 (d) At the hearing, the following rights of the parties shall be preserved:

- 1 (1) The right to present sworn evidence, law, or rules that bear upon the case.
2 (2) The right to represent themselves or obtain the services of an attorney at their
3 own expense.
4 (3) The right to subpoena witnesses, cross-examine witnesses of the other party,
5 and make a closing argument summarizing the party's view of the case and
6 the law.
7 (e) In considering whether to grant a petition filed under this section, the court shall
8 consider:
9 (1) The nature of the abuse or serious neglect.
10 (2) The amount of time since the placement on the responsible individuals list.
11 (3) Any activities that would reflect upon the person's changed behavior or
12 circumstances, such as therapy, employment, or education.
13 (4) Any other circumstances relevant to whether the petition should be granted.
14 (f) The court may grant the petition if the court finds, by clear and convincing evidence,
15 that there is little likelihood that the petitioner will be a future perpetrator of child abuse or
16 neglect.
17 (g) Within 30 days after completion of the hearing, the court shall enter an order
18 containing findings of fact and conclusions of law. The clerk shall serve a copy of the order on
19 each party or the party's attorney of record. If the court concludes that the petition should be
20 granted, the court shall order the director to expunge the individual's name from the responsible
21 individuals list."
22 **SECTION 19.** Except as otherwise provided, this act becomes effective October 1,
23 2023, and applies to all actions filed or pending on or after that date.