

Appendix A

Selected Portions of the North Carolina Juvenile Code

NORTH CAROLINA GENERAL STATUTES

Chapter 7B. Juvenile Code.

Subchapter I. Abuse, Neglect, Dependency

(As amended through the 2002 Session of the General Assembly)

ARTICLE 1.

Purposes; Definitions.

§ 7B-100. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (1) To provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents;
- (2) To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the juvenile, and the strengths and weaknesses of the family.
- (3) To provide for services for the protection of juveniles by means that respect both the right to family autonomy and the juveniles' needs for safety, continuity, and permanence; and
- (4) To provide standards for the removal, when necessary, of juveniles from their homes and for the return of juveniles to their

homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their parents.

§ 7B-101. Definitions.

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

- (1) Abused juveniles.—Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
 - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
 - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
 - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
 - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first-degree sexual

- offense, as provided in G.S. 14-27.4; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178 and G.S. 14-179; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1, regardless of the age of the parties;
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or
 - f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.
- (2) Aggravated circumstances.—Any circumstance attending to the commission of an act of abuse or neglect which increases its enormity or adds to its injurious consequences, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.
- (3) Caretaker.—Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. "Caretaker" also means any person who has the responsibility for the care of a juvenile in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only.
 - (4) Clerk.—Any clerk of superior court, acting clerk, or assistant or deputy clerk.
 - (5) Community-based program.—A program providing nonresidential or residential treatment to a juvenile in the community where the juvenile's family lives. A community-based program may include specialized foster care, family

- counseling, shelter care, and other appropriate treatment.
- (6) Court.—The district court division of the General Court of Justice.
- (7) Court of competent jurisdiction.—A court having the power and authority of law to act at the time of acting over the subject matter of the cause.
- (7a) “Criminal history” means a local, State, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, involving violence against a person.
- (8) Custodian.—The person or agency that has been awarded legal custody of a juvenile by a court or a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.
- (9) Dependent juvenile.—A juvenile in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile’s care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement.
- (10) Director.—The director of the county department of social services in the county in which the juvenile resides or is found, or the director’s representative as authorized in G.S. 108A-14.
- (11) District.—Any district court district as established by G.S. 7A-133.
- (12) Judge.—Any district court judge.
- (13) Judicial district.—Any district court district as established by G.S. 7A-133.
- (14) Juvenile.—A person who has not reached the person’s eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States.
- (15) Neglected juvenile.—A juvenile who does not receive proper care, supervision, or discipline from the juvenile’s parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile’s welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.
- (16) Petitioner.—The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.
- (17) Prosecutor.—The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (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.
- (19) Safe home.—A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect.

- (20) Shelter care.—The temporary care of a juvenile in a physically unrestricting facility pending court disposition.

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified.

ARTICLE 2.

Jurisdiction.

§ 7B-200. Jurisdiction.

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter;
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered;
- (3) Proceedings to determine whether a juvenile should be emancipated;
- (4) Proceedings to terminate parental rights;
- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services;
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7B-302;
- (7) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A,

Part 2 of Chapter 90 of the General Statutes; and

- (8) Proceedings by an underage party seeking judicial authorization to marry, pursuant to Article 1 of Chapter 51 of the General Statutes.

(b) The court shall have jurisdiction over the parent or guardian of a juvenile who has been adjudicated abused, neglected, or dependent, as provided by G.S. 7B-904, provided the parent or guardian has been properly served with summons pursuant to G.S. 7B-406.

§ 7B-201. Retention of jurisdiction.

When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years or is otherwise emancipated, whichever occurs first.

ARTICLE 3.

Screening of Abuse and Neglect Complaints.

§ 7B-300. Protective services.

The director of the department of social services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent.

Protective services shall include the investigation and screening of complaints, casework, or other counseling services to parents, guardians, or other caretakers as provided by the director to help the parents, guardians, or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents, guardians, or caretakers, and to preserve and stabilize family life.

The provisions of this Article shall also apply to child care facilities as defined in G.S. 110-86.

§ 7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.

Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report

the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's investigation of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the director shall notify the State Bureau of Investigation within 24 hours or on the next workday. If sexual abuse in a child care facility is not alleged in the initial report, but during the course of the investigation there is reason to suspect that sexual abuse has occurred, the director shall immediately notify the State Bureau of Investigation. Upon notification that sexual abuse may have occurred in a child care facility, the State Bureau of Investigation may form a task force to investigate the report.

§ 7B-302. Investigation by director; access to confidential information; notification of person making the report.

(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report

alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect or dependency, the director shall initiate the investigation within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an investigation, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The investigation and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the investigation shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department.

(b) When a report of a juvenile's death as a result of suspected maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in a noninstitutional setting is received, the director of the department of social services shall immediately ascertain if other juveniles live in the home, and, if so, initiate an investigation in order to determine whether they require protective services or whether immediate removal of the juveniles from the home is necessary for their protection. When a report of a juvenile's death as a result of maltreatment or a report of suspected abuse, neglect, or dependency of a juvenile in an institutional setting such as a residential child care facility or residential educational facility is received, the director of the department of social services shall immediately ascertain if other juveniles remain in the facility subject to the alleged perpetrator's care or supervision, and, if so, assess the circumstances of those juveniles in order to determine whether they require protective services or whether immediate removal of those juveniles from the facility is necessary for their protection.

(c) If the investigation 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 complaint 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 complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation 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.

(d1) Whenever a juvenile is removed from the home of a parent, guardian, custodian, stepparent, or adult relative entrusted with the juvenile's care due to physical abuse, the director shall conduct a thorough review of the background of the alleged abuser or abusers. This review shall include a criminal history check and a review of any available mental health records. If the review reveals that the alleged abuser or abusers have a history of violent behavior against people, the director shall petition the court to order the alleged abuser or abusers to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist.

(e) In performing any duties related to the investigation of the complaint or the provision or arrangement for protective services, the director may consult with any public or private agencies or individuals, including the available State or local law enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse, neglect, or dependency when requested by the director. The director or the director's representative may make a written demand for any information or reports, whether or not confidential, that may in the director's opinion be relevant to the investigation of or the provision for protective services. Upon the director's or

the director's representative's request and unless protected by the attorney-client privilege, any public or private agency or individual shall provide access to and copies of this confidential information and these records to the extent permitted by federal law and regulations. If a custodian of criminal investigative information or records believes that release of the information will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such an action, the custodian of the records shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this paragraph shall be set down for immediate hearing, and subsequent proceedings in the actions shall be accorded priority by the trial and appellate courts.

(f) Within five working days after receipt of the report of abuse, neglect, or dependency, the director shall give written notice to the person making the report, unless requested by that person not to give notice, as to whether the report was accepted for investigation and whether the report was referred to the appropriate State or local law enforcement agency.

(g) Within five working days after completion of the protective services investigation, the director shall give subsequent written notice to the person making the report, unless requested by that person not to give notice, as to whether there is a finding of abuse, neglect, or dependency, whether the county department of social services is taking action to protect the juvenile, and what action it is taking, including whether or not a petition was filed. The person making the report shall be informed of procedures necessary to request a review by the prosecutor of the director's decision not to file a petition. A request for review by the prosecutor shall be made within five working days of receipt of the second notification. The second notification shall include notice that, if the person making

the report is not satisfied with the director's decision, the person may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive the person's right to this notification, and no notification is required if the person making the report does not identify himself to the director.

§ 7B-303. Interference with investigation.

(a) If any person obstructs or interferes with an investigation required by G.S. 7B-302, the director may file a petition naming said person as respondent and requesting an order directing the respondent to cease such obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the investigation, shall specifically describe the conduct alleged to constitute obstruction of or interference with the investigation, and shall be verified.

(b) For purposes of this section, obstruction of or interference with an investigation means refusing to disclose the whereabouts of the juvenile, refusing to allow the director to have personal access to the juvenile, refusing to allow the director to observe or interview the juvenile in private, refusing to allow the director access to confidential information and records upon request pursuant to G.S. 7B-302, refusing to allow the director to arrange for an evaluation of the juvenile by a physician or other expert, or other conduct that makes it impossible for the director to carry out the duty to investigate.

(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, and convincing evidence that the respondent, without lawful excuse, has obstructed or interfered with an investigation 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.

(d) If the director has reason to believe that the juvenile is in need of immediate protection or assistance, the director shall so allege in the petition and may seek an ex parte order from the court. If the court, from the verified petition and any inquiry the court makes of the director, finds probable cause to believe both that the juvenile is at risk of immediate harm and that the respondent is obstructing or interfering with the director's ability to investigate to determine the juvenile's condition, the court may enter an ex parte order directing the respondent to cease such obstruction or interference. The order shall be limited to provisions necessary to enable the director to conduct an investigation sufficient to determine whether the juvenile is in need of immediate protection or assistance. Within 10 days after the entry of an ex parte order under this subsection, a hearing shall be held to determine whether there is good cause for the continuation of the order or the entry of a different order. An order entered under this subsection shall be served on the respondent along with a copy of the petition, summons, and notice of hearing.

(e) The director may be required at a hearing under this section to reveal the identity of any person who made a report of suspected abuse, neglect, or dependency as required by G.S. 7B-301.

(f) An order entered pursuant to this section is enforceable by civil or criminal contempt as provided in Chapter 5A of the General Statutes.

§ 7B-304. Evaluation for court.

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

§ 7B-305. Request for review by prosecutor.

The person making the report shall have five working days, from receipt of the decision of the director of the department of social services not to petition the court, to notify the prosecutor that the person is requesting a review. The prosecutor shall notify the person making the report and the director of the time and place for the review, and the director shall immediately transmit to the prosecutor a copy of the investigation report.

§ 7B-306. Review by prosecutor.

The prosecutor shall review the director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or the juvenile's family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the director, may request the appropriate local law enforcement agency to investigate the allegations, or may direct the director to file a petition.

§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Health and Human Services and State Bureau of Investigation.

(a) If the director finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigation being conducted by the county department of social services. Upon completion of the investigation,

the district attorney shall determine whether criminal prosecution is appropriate and may request the director or the director's designee to appear before a magistrate.

If the director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile in child care, the director shall notify the Department of Health and Human Services within 24 hours or on the next working day of receipt of the report.

(b) If the director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7B-101 in a child care facility, the director shall immediately so notify the Department of Health and Human Services and, in the case of sexual abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the department of social services.

(c) Upon completion of the investigation, the director shall give the Department written notification of the results of the investigation required by G.S. 7B-302. Upon completion of an investigation of sexual abuse in a child care facility, the director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The director of the department of social services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

§ 7B-308. Authority of medical professionals in abuse cases.

(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

(b) Immediately upon receipt of judicial authority to retain custody, the physician, the administrator, or that person's designee shall so notify the director of social services for the county in which the facility is located. The director shall treat this notification as a report of suspected abuse and shall immediately begin an investigation of the case.

- (1) If the investigation reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or alleviate physical distress or to prevent the juvenile from suffering serious physical injury, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian, or caretaker cannot be reached or, upon request, will not consent to the treatment within the

facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.

- (2) In all cases except those described in subdivision (1) above, the director shall conduct the investigation and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator, or that person's designee may ask the prosecutor to review this decision according to the provisions of G.S. 7B-305 and G.S. 7B-306.

(c) If, upon hearing, the court determines that the juvenile is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and G.S. 7B-904.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7B-302.

(f) The procedures in this section are in addition to, and not in derogation of, the abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or administrator and a director of social services from following the procedures of G.S. 7B-301 and G.S. 7B-500

whenever these procedures are more appropriate to the juvenile's circumstances.

§ 7B-309. Immunity of persons reporting and cooperating in an investigation.

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services inquiry or investigation, testifies in any judicial proceeding resulting from a protective services report or investigation, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

§ 7B-310. Privileges not grounds for failing to report or for excluding evidence.

No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.

§ 7B-311. Central registry.

The Department of Health and Human Services shall maintain a central registry of abuse, neglect, and dependency cases and child fatalities that are the result of alleged maltreatment that are reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county

directors of social services to the Department of Health and Human Services and shall be confidential, subject to policies adopted by the Social Services Commission providing for its use for study and research and for other appropriate disclosure. Data shall not be used at any hearing or court proceeding unless based upon a final judgment of a court of law.

ARTICLE 4.

Venue; Petitions.

§ 7B-400. Venue; pleading.

A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. When a proceeding is commenced in a district other than that of the juvenile's residence, the court, on its own motion or upon motion of any party, may transfer the proceeding to the court in the district where the juvenile resides. A transfer under this section may be made at any time.

§ 7B-401. Pleading and process.

The pleading in an abuse, neglect, or dependency action is the petition. The process in an abuse, neglect, or dependency action is the summons.

§ 7B-402. Petition.

The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of the juvenile's parent, guardian, or custodian and shall allege the facts which invoke jurisdiction over the juvenile. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

Sufficient copies of the petition shall be prepared so that copies will be available for each parent if living separate and apart, the guardian, custodian, or caretaker, the guardian ad litem, the social worker, and any person determined by the court to be a necessary party.

§ 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 by the director, 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.

§ 7B-404. Immediate need for petition when clerk's office is closed.

(a) When the office of the clerk is closed, a magistrate may be authorized by the chief district court judge to draw, verify, and issue petitions as follows:

- (1) When the director of the department of social services requests a petition alleging a juvenile to be abused, neglected, or dependent, or
- (2) When the director of the department of social services requests a petition alleging the obstruction of or interference with an investigation required by G.S. 7B-302.

(b) The authority of the magistrate under this section is limited to emergency situations when a petition is required in order to obtain a nonsecure custody order or an order under G.S. 7B-303. Any petition issued under this section shall be delivered to the clerk's office for processing as soon as that office is open for business.

§ 7B-405. Commencement of action.

An action is commenced by the filing of a petition in the clerk's office when that office is open or by the issuance of a juvenile petition by a magistrate when the clerk's office is closed, which issuance shall constitute filing.

§ 7B-406. Issuance of summons.

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. A copy

of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include:

- (1) Notice of the nature of the proceeding;
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing;
- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State; and
- (4) Notice that the dispositional order or a subsequent order:
 - a. May remove the juvenile from the custody of the parent, guardian, or custodian.
 - b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
 - c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
 - d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
 - e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent that upon service, jurisdiction over that person is obtained and that failure to comply with any order of the court pursuant to G.S. 7B-904 may cause the court to issue a show cause order for contempt.

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process.

§ 7B-407. Service of summons.

The summons shall be personally served upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition by mail or by publication. The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

If the parent, guardian, custodian, or caretaker is personally served as herein provided and fails without reasonable cause to appear and to bring the juvenile before the court, the parent, guardian, custodian, or caretaker may be proceeded against as for contempt of court.

ARTICLE 5. Temporary Custody; Nonsecure Custody; Custody Hearings.

§ 7B-500. Taking a juvenile into temporary custody; civil and criminal immunity.

(a) Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a department of social services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not

be taken into custody if it were first necessary to obtain a court order. If a department of social services worker takes a juvenile into temporary custody under this section, the worker may arrange for the placement, care, supervision, and transportation of the juvenile.

(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

- (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A law enforcement officer who is on duty or at a police station or sheriff's department.
- (3) A social services worker who is on duty or at a local department of social services.
- (4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station.

(c) An individual who takes an infant into temporary custody under subsection (b) of this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. Any individual who takes an infant into temporary custody under subsection (b) of this section may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(d) Any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and

shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(e) An individual described in subsection (b) or (d) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of subsection (c) or (d) of this section as long as that individual was acting in good faith. The immunity established by this subsection does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

§ 7B-501. Duties of person taking juvenile into temporary custody.

(a) A person who takes a juvenile into custody without a court order under G.S. 7B-500 shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, custodian, or caretaker that the juvenile has been taken into temporary custody and advise the parent, guardian, custodian, or caretaker of the right to be present with the juvenile until a determination is made as to the need for nonsecure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, custodian, or caretaker if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- (3) The person having temporary custody shall communicate with the director of the department of social services who shall consider pre-hearing diversion. If the decision is made to file a petition, the director

shall contact the judge or person delegated authority pursuant to G.S. 7B-502 for a determination of the need for continued custody.

(b) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless:

- (1) A petition or motion for review has been filed by the director of the department of social services, and
- (2) An order for nonsecure custody has been entered by the court.

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

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.

Any district court judge shall have the authority to issue nonsecure custody orders pursuant to G.S. 7B-503. The chief district court judge may delegate the court's authority to persons other than district court judges 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.

§ 7B-503. Criteria for nonsecure custody.

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

- (1) The juvenile has been abandoned; or
- (2) The juvenile has suffered physical injury or sexual abuse; or
- (3) The juvenile is exposed to a substantial risk of physical injury or

sexual abuse because the parent, guardian, custodian, or caretaker has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection; or

- (4) The juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment; or
- (5) The parent, guardian, custodian, or caretaker consents to the nonsecure custody order; or
- (6) The juvenile is a runaway and consents to nonsecure custody.

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

(b) Whenever a petition is filed under G.S. 7B-302(d1), the court shall rule on the petition prior to returning the child to a home where the alleged abuser or abusers are or have been present. If the court finds that the alleged abuser or abusers have a history of violent behavior against people, the court shall order the alleged abuser or abusers to submit to a complete mental health evaluation by a licensed psychologist or psychiatrist. The court may order the alleged abuser or abusers to pay the cost of any mental health evaluation required under this section.

§ 7B-504. Order for nonsecure custody.

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. A copy of the order shall be given to the juvenile's parent, guardian, custodian, or caretaker by the official executing the order.

nile's parent, guardian, custodian, or caretaker by the official executing the order.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms. The officer is not required to inquire into the regularity or continued validity of the order and shall not incur criminal or civil liability for its due service.

§ 7B-505. Place of nonsecure custody.

A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure custody with the department of social services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care; or
- (2) A facility operated by the department of social services; or
- (3) Any other home or facility, including a relative's home approved by the court and designated in the order.

In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance

with the Interstate Compact on the Placement of Children, Article 38 of this Chapter.

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

(a) No juvenile shall be held under a non-secure 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 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.

(b) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's parent, guardian, custodian, or caretaker an opportunity to introduce evidence, to be heard in the person's own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall not be bound by the usual rules of evidence at such hearings.

(c) The court shall be bound by criteria set forth in G.S. 7B-503 in determining whether continued custody is warranted.

(c1) In determining whether continued custody is warranted, the court shall consider the opinion of the mental health professional who performed an evaluation under G.S. 7B-

503(b) before returning the juvenile to the custody of that individual.

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

(e) If the court orders at the hearing required in subsection (a) of this section that the juvenile remain in custody, a subsequent hearing on continued custody shall be held within seven business days of that hearing, excluding Saturdays, Sundays, and legal holidays, and pending a hearing on the merits, hearings thereafter shall be held at intervals of no more than 30 calendar days.

(f) Hearings conducted under subsection (e) of this section may be waived only with the consent of the juvenile's parent, guardian, custodian, or caretaker, and, if appointed, the juvenile's guardian ad litem.

The court may require the consent of additional parties or schedule a hearing despite a party's consent to waiver.

(g) Reserved.

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

- (1) Inquire as to the identity and location of any missing parent and as to whether paternity is at issue. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent, as well as efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts aimed at determining the identity and location of any missing parent, as well as specific efforts aimed at establishing paternity.
- (2) Inquire as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is

willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M.

Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter; and

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

§ 7B-507. Reasonable efforts.

(a) An order placing or continuing the placement of a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order:

- (1) Shall contain a finding that the juvenile's continuation in or return to the juvenile's own home would be contrary to the juvenile's best interest;
- (2) Shall contain findings as to whether a county department of social services has made reasonable efforts to prevent or eliminate the

need for placement of the juvenile, unless the court has previously determined under subsection (b) of this section that such efforts are not required or shall cease;

- (3) Shall contain findings as to whether a county department of social services should continue to make reasonable efforts to prevent or eliminate the need for placement of the juvenile, unless the court has previously determined or determines under subsection (b) of this section that such efforts are not required or shall cease;
- (4) Shall specify that the juvenile's placement and care are the responsibility of the county department of social services and that the agency is to provide or arrange for the foster care or other placement of the juvenile; and
- (5) May provide for services or other efforts aimed at returning the juvenile to a safe home or at achieving another permanent plan for the juvenile.

A finding that reasonable efforts have not been made by a county department of social services shall not preclude the entry of an order authorizing the juvenile's placement when the court finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the need for the juvenile's placement were precluded by an immediate threat of harm to the juvenile, the court may find that the placement of the juvenile in the absence of such efforts was reasonable.

(b) In any order placing a juvenile in the custody or placement responsibility of a county department of social services, whether an order for continued nonsecure custody, a dispositional order, or a review order, the court may direct that reasonable efforts to eliminate the need for placement of the juvenile shall not be required or shall cease if the court makes written findings of fact that:

- (1) Such efforts clearly would be futile or would be inconsistent with the juvenile's health, safety, and need

- for a safe, permanent home within a reasonable period of time;
- (2) A court of competent jurisdiction has determined that the parent has subjected the child to aggravated circumstances as defined in G.S. 7B-101;
 - (3) A court of competent jurisdiction has terminated involuntarily the parental rights of the parent to another child of the parent; or
 - (4) A court of competent jurisdiction has determined that: the parent has committed murder or voluntary manslaughter of another child of the parent; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; or has committed a felony assault resulting in serious bodily injury to the child or another child of the parent.

(c) At any hearing at which the court finds that reasonable efforts to eliminate the need for the juvenile's placement are not required or shall cease, the court shall direct that a permanency planning hearing as required by G.S. 7B-907 be held within 30 calendar days after the date of the hearing and, if practicable, shall set the date and time for the permanency planning hearing.

(d) In determining reasonable efforts to be made with respect to a juvenile and in making such reasonable efforts, the juvenile's health and safety shall be the paramount concern. Reasonable efforts to preserve or reunify families may be made concurrently with efforts to plan for the juvenile's adoption, to place the juvenile with a legal guardian, or to place the juvenile in another permanent arrangement.

§ 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. All written orders pursuant to telephonic communication shall

bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization.

ARTICLE 6. Basic Rights.

§ 7B-600. Appointment of guardian.

(a) In any case when no parent appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is in the best interest of the juvenile and has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court may not terminate the guardianship or order that the juvenile be reintegrated into a parent's home unless the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, that the guardian is unfit, that the guardian has neglected a guardian's duties, or that the guardian is unwilling or unable to continue assuming a guardian's duties. If a party files a motion or petition under G.S. 7B-906 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

- (1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.
- (2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.
- (3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.
- (4) Take any other action necessary in order to make a determination in a particular case.

§ 7B-601. Appointment and duties of guardian ad litem.

(a) When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the court may appoint a guardian ad litem to represent the juvenile. The juvenile is a party in all actions under this Subchapter. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate when the permanent plan has been achieved for the juvenile and approved by the court. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the juvenile's legal rights throughout the proceeding. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the

juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court.

(b) The court may authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

(c) The guardian ad litem has the authority to obtain any information or reports, whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law.

§ 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.

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

- (1) Where it is alleged that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101 in that the parent is incapable as the result of

substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition of providing for the proper care and supervision of the juvenile; or

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

§ 7B-603. Payment of court-appointed attorney or guardian ad litem.

(a) An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 shall be paid a reasonable fee fixed by the court or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts.

(b) An attorney appointed pursuant to G.S. 7B-602 or pursuant to any other provision of the Juvenile Code for which the Office of Indigent Defense Services is responsible for providing counsel shall be paid a reasonable fee in accordance with rules adopted by the Office of Indigent Defense Services.

(c) The court may require payment of the attorney or guardian ad litem fee from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. A person who does not comply with the court's order of payment may be punished for contempt as provided in G.S. 5A-21.

ARTICLE 7.

Discovery.

§ 7B-700. Regulation of discovery; protective orders.

(a) Upon written motion of a party and a finding of good cause, the court may at any time order that discovery be denied, restricted, or deferred.

(b) The court may permit a party seeking relief under subsection (a) of this section to

submit supporting affidavits or statements to the court for in camera inspection. If, thereafter, the court enters an order granting relief under subsection (a) of this section, the material submitted in camera must be available to the Court of Appeals in the event of an appeal.

ARTICLE 8.

Hearing Procedures.

§ 7B-800. Amendment of petition.

The court may permit a petition to be amended when the amendment does not change the nature of the conditions upon which the petition is based.

§ 7B-801. Hearing.

(a) At any hearing authorized or required under this Subchapter, the court in its discretion shall determine whether the hearing or any part of the hearing shall be closed to the public. In determining whether to close the hearing or any part of the hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:

- (1) The nature of the allegations against the juvenile's parent, guardian, custodian or caretaker;
- (2) The age and maturity of the juvenile;
- (3) The benefit to the juvenile of confidentiality;
- (4) The benefit to the juvenile of an open hearing; and
- (5) The extent to which the confidentiality afforded the juvenile's record pursuant to G.S. 132-1.4(l) and G.S. 7B-2901 will be compromised by an open hearing.

(b) No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.

(c) The adjudicatory hearing shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 60 days from the filing of the petition unless the judge pursuant to G.S. 7B-803 orders that it be held at a later time.

§ 7B-802. Conduct of hearing.

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law.

§ 7B-803. Continuances.

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile.

§ 7B-804. Rules of evidence.

Where the juvenile is alleged to be abused, neglected, or dependent, the rules of evidence in civil cases shall apply.

§ 7B-805. Quantum of proof in adjudicatory hearing.

The allegations in a petition alleging abuse, neglect, or dependency shall be proved by clear and convincing evidence.

§ 7B-806. Record of proceedings.

All adjudicatory and dispositional hearings shall be recorded by stenographic notes or by electronic or mechanical means. Records shall be reduced to a written transcript only when timely notice of appeal has been given. The court may order that other hearings be recorded.

§ 7B-807. Adjudication.

(a) If the court finds that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in

nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

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

§ 7B-808. Predisposition investigation and report.

The court shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court shall permit the guardian ad litem or juvenile to inspect any predisposition report to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the guardian ad litem or juvenile, and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts of the report to the guardian ad litem or juvenile, or the juvenile's parent, guardian, or custodian if the court finds that disclosure would seriously harm the treatment of the juvenile or would violate a promise of confidentiality given to a source of information.

ARTICLE 9.

Dispositions.

§ 7B-900. Purpose.

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and the juvenile's family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus,

the court should arrange for appropriate community-level services to be provided to the juvenile and the juvenile's family in order to strengthen the home situation.

§ 7B-901. Dispositional hearing.

The dispositional hearing may be informal and the court may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile. The court may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

§ 7B-902. Consent judgment in abuse, neglect, or dependency proceeding.

Nothing in this Article precludes the court from entering a consent order or judgment on a petition for abuse, neglect, or dependency when all parties are present, the juvenile is represented by counsel, and all other parties are either represented by counsel or have waived counsel, and sufficient findings of fact are made by the court.

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

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

- (1) The court may dismiss the case or continue the case in order to allow the parent, guardian, custodian, caretaker or others to take appropriate action.
- (2) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the court may:
 - a. Require that the juvenile be supervised in the juvenile's own home by the department

of social services in the juvenile's county, or by other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, custodian, or caretaker as the court may specify; or

- b. Place the juvenile in the custody of a parent, relative, private agency offering placement services, or some other suitable person; or
- c. Place the juvenile in the custody of the department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of the department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the court, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile, the director may, unless otherwise ordered by the court, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a court or the court's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from

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

In placing a juvenile in out-of-home care under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that the placement is contrary to the best interests of the juvenile. In

placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children.

- (3) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile:
 - a. Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other treatment and who should pay the cost of the treatment. The county manager, or such person who shall be designated by the chairman of the county commissioners, of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other treatment, the court shall permit the parent or other responsible persons to arrange for treatment. If the parent declines or is unable to make necessary arrangements, the court may order the needed treatment, surgery, or care, and the court may order the parent to pay the cost of the care pursuant to G.S. 7B-904. If the court finds the parent is unable to pay the cost of treatment, the court shall order the county to

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

- b. If the court believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent or guardian. If the parent, guardian, custodian, or caretaker refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that purpose.

In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by a court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

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

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

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

(b) At the dispositional hearing or a subsequent hearing 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.

(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(c). 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.

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

- (1) Attend and participate in parental responsibility classes if those classes are available in the judicial district in which the parent, guardian, custodian, or caretaker resides.
- (2) Provide, to the extent that person is able to do so, transportation for the juvenile to keep appointments for medical, psychiatric, psychological, or other treatment ordered by the court if the juvenile remains in or is returned to the home.
- (3) Take appropriate steps to remedy conditions in the home 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, or caretaker.

(e) Upon motion of a party or upon the court's own motion, the court may issue an order directing the parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S. 7B-407 to appear and show cause why the parent, guardian, custodian, or caretaker should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this section.

§ 7B-905. Dispositional order.

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

(b) A dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker shall direct that the review hearing required by G.S. 7B-906 be held within 90 days from of the date of the dispositional hearing and, if practicable, shall set the date and time for the review hearing.

(c) Any dispositional order shall comply with the requirements of G.S. 7B-507. Any dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker, or under which the juvenile's placement is continued outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety. If the juvenile is placed in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved by the court. If the director subsequently makes a good faith determination that the visitation plan may not be in the best interests of the juvenile or consistent with the juvenile's

health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subjected to any motion to show cause for this suspension, but shall expeditiously file a motion for review.

§ 7B-906. Review of custody order.

(a) In any case where custody is removed from a parent, guardian, custodian, or caretaker the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter. The director of social services shall make a timely request to the clerk to calendar each review at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the review and its purpose to the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review. Nothing in this subsection shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and an opportunity to be heard.

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

- (1) The juvenile has resided with a relative or has been in the custody of another suitable person for a period of at least one year;
- (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 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; and

- (5) The court order has designated the relative or other suitable person as the juvenile's permanent caretaker 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. However, if a guardian of the person has been appointed for the juvenile and the court has also made findings in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b).

(c) At every review hearing, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid in its review.

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

- (1) Services which have been offered to reunite the family, or whether efforts to reunite the family clearly would be futile or inconsistent with the juvenile's safety and need for a safe, permanent home within a reasonable period of time.
- (2) Where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care.
- (3) Goals of the foster care placement and the appropriateness of the foster care plan.
- (4) A new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile.
- (5) Reports on the placements the juvenile has had and any services offered to the juvenile and the parent, guardian, custodian, or caretaker.
- (6) An appropriate visitation plan.

- (7) If the juvenile is 16 or 17 years of age, a report on an independent living assessment of the juvenile and, if appropriate, an independent living plan developed for the juvenile.

- (8) When and if termination of parental rights should be considered.

- (9) Any other criteria the court deems necessary.

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

- (e) Reserved.

(f) The provisions of G.S. 7B-507 shall apply to any order entered under this section.

§ 7B-907. Permanency planning hearing.

(a) In any case where custody is removed from a parent, guardian, custodian, or caretaker, the judge shall conduct a review hearing designated as a permanency planning hearing within 12 months after the date of the initial order removing custody, and the hearing may be combined, if appropriate, with a review hearing required by G.S. 7B-906. The purpose of the permanency planning hearing shall be to develop a plan to achieve a safe, permanent home for the juvenile within a reasonable period of time. Subsequent permanency planning hearings shall be held at least every six months thereafter, or earlier as set by the court, to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to

make a new permanent plan for the juvenile. The Director of Social Services shall make a timely request to the clerk to calendar each permanency planning hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to the parent, the juvenile if 12 years of age or more, the guardian, any foster parent, relative, or pre-adoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review. Nothing in this provision shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and an opportunity to be heard.

(b) At any permanency planning review, the court shall consider information from the parent, the juvenile, the guardian, any foster parent, relative or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency which will aid it in the court's review. At the conclusion of the hearing, if the juvenile is not returned home, the court shall consider the following criteria and make written findings regarding those that are relevant:

- (1) Whether it is possible for the juvenile to be returned home immediately or within the next six months, and if not, why it is not in the juvenile's best interests to return home;
- (2) Where the juvenile's return home is unlikely within six months, whether legal guardianship or custody with a relative or some other suitable person should be established, and if so, the rights and responsibilities which should remain with the parents;
- (3) Where the juvenile's return home is unlikely within six months, whether adoption should be pursued and if so, any barriers to the juvenile's adoption;
- (4) Where the juvenile's return home is unlikely within six months, whether the juvenile should remain

in the current placement or be placed in another permanent living arrangement and why;

- (5) Whether the county department of social services has since the initial permanency plan hearing made reasonable efforts to implement the permanent plan for the juvenile;
- (6) Any other criteria the court deems necessary.

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

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

(d) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services, and has been in placement outside the home for 12 of the most recent 22 months; or a court of competent jurisdiction has determined that the parent has abandoned the child; or has committed murder or voluntary manslaughter of another child of the parent; or has aided, abetted, attempted,

conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, the director of the department of social services shall initiate a proceeding to terminate the parental rights of the parent unless the court finds:

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

(e) If a proceeding to terminate the parental rights of the juvenile's parents is necessary in order to perfect the permanent plan for the juvenile, the director of the department of social services shall file a petition to terminate parental rights within 60 calendar days from the date of the permanency planning hearing unless the court makes written findings why the petition cannot be filed within 60 days. If the court makes findings to the contrary, the court shall specify the time frame in which any needed petition to terminate parental rights shall be filed.

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

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing agency, the guardian ad litem, the child, any foster parent, relative, or preadoptive parent providing care for the child, and any other person or agency the court determines is likely to aid in the review.

(b) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition brought by any person or agency designated in G.S. 7B-1103(2) through (5) and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is placed for adoption and the adoption petition is filed by the adoptive parents:

- (1) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile if the juvenile is at least 12 years of age, the legal custodian of the juvenile, any foster parent, relative, or preadoptive parent providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify. Only the juvenile, if the juvenile is at least 12 years of age, the legal custodian of the juvenile, any foster parent, relative, or preadoptive parent providing care for the juvenile, and the guardian ad litem shall attend the review hearings, except as otherwise directed by the court. Nothing in this subdivision shall be construed to make any foster parent, relative, or preadoptive parent a party to the proceeding solely based on receiving notice and an opportunity to be heard.
- (2) If a guardian ad litem for the juvenile has not been appointed previously by the court in the termination proceeding, the court, at the initial six-month review hearing, may appoint a guardian ad litem to represent the juvenile. The court may continue the case for such time as is necessary for the guardian ad litem to become familiar with the facts of the case.

(c) The court shall consider at least the following in its review:

- (1) The adequacy of the plan developed by the county department of social services or a licensed child-placing agency for a permanent placement relative to the juvenile's best interests and the efforts of the department or agency to implement such plan;
- (2) Whether the juvenile has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service (PALS), or any other specialized adoption agency; and
- (3) The efforts previously made by the department or agency to find a permanent home for the juvenile.

(d) The court, after making findings of fact, shall affirm the county department's or child-placing agency's plans or require specific additional steps which are necessary to accomplish a permanent placement which is in the best interests of the juvenile.

(e) If the juvenile has been placed for adoption prior to the date scheduled for the review, written notice of said placement shall be given to the clerk to be placed in the court file, and the review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified.

(f) The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection process. If the guardian ad litem requests information about the selection process, the county shall provide the information within five days. Any issue of abuse of discretion by the county department or child-placing agency in the selection process must be raised by the guardian ad litem within 10 days following the date the agency notifies the court and the guardian ad litem in writing of the filing of the adoption petition.

§ 7B-909. Review of agency's plan for placement.

(a) The director of social services or the director of the licensed private child-placing agency shall promptly notify the clerk to calendar the case for review of the department's or agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters in any case where:

- (1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or
- (2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.

(b) In any case where an adoption is dismissed or withdrawn and the juvenile returns to foster care with a department of social services or a licensed private child-placing agency, then the department of social services or licensed child-placing agency shall notify the clerk, within 30 days from the date the juvenile returns to care, to calendar the case for review of the agency's plan for the juvenile at a session of court scheduled for the hearing of juvenile matters.

(c) Notification of the court required under subsection (a) or (b) of this section shall be by a petition for review. The petition shall set forth the circumstances necessitating the review under subsection (a) or (b) of this section. The review shall be conducted within 30 days following the filing of the petition for review unless the court shall otherwise direct. The court shall conduct reviews every six months until the juvenile is placed for adoption and the adoption petition is filed by the adoptive parents. The initial review and all subsequent reviews shall be conducted pursuant to G.S. 7B-908.

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

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

- (1) The voluntariness of the placement;
- (2) The appropriateness of the placement;
- (3) Whether the placement is in the best interests of the juvenile; and
- (4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.

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

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

(d) The clerk shall give at least 15 days' advance written notice of the initial and subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12 or more years of age, to the director of social

services, and to any other persons whom the court may specify.

ARTICLE 10. Modification and Enforcement of Dispositional Orders; Appeals.

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

(a) Upon motion in the cause or petition, and after notice, the court may conduct a review hearing to determine whether the order of the court is in the best interests of the juvenile, and 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 in accordance with G.S. 7B-907 that guardianship is the permanent plan for the juvenile, the court shall proceed in accordance with G.S. 7B-600(b).

(b) In any case where the court finds the juvenile to be abused, neglected, or dependent, the jurisdiction of the court to modify any order or disposition made in the case shall continue during the minority of the juvenile, until terminated by order of the court, or until the juvenile is otherwise emancipated.

§ 7B-1001. Right to appeal.

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

- (1) Any order finding absence of jurisdiction;
- (2) Any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is abused, neglected, or dependent; or

- (4) Any order modifying custodial rights.

§ 7B-1002. Proper parties for appeal.

An appeal may be taken by the guardian ad litem or juvenile, the juvenile's parent, guardian, or custodian, the State or county agency.

§ 7B-1003. Disposition pending appeal.

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

§ 7B-1004. Disposition after appeal.

Upon the affirmation of the order of adjudication or disposition of the court by the Court of Appeals or by the Supreme Court in the event of an appeal, the court shall have authority to modify or alter the original order of adjudication or disposition as the court finds to be in the best interests of the juvenile to reflect any adjustment made by the juvenile or change in circumstances during the period of time the appeal was pending. If the modifying order is entered ex parte, the court shall give notice to interested parties to show cause within 10 days thereafter as to why the modifying order should be vacated or altered.

[Articles 11 and 12, which are not included here, deal with termination of parental rights and the guardian ad litem program, respectively.]

ARTICLE 13.

Prevention of Abuse and Neglect.

§ 7B-1300. Purpose.

It is the expressed intent of this Article to make the prevention of abuse and neglect, as defined in G.S. 7B-101, a priority of this State and to establish the Children's Trust Fund as a means to that end.

§ 7B-1301. Program on Prevention of Abuse and Neglect.

(a) The State Board of Education, through the Department of Public Instruction, shall implement the Program on Prevention of Abuse and Neglect. The Department of Public Instruction, subject to the approval of the State Board of Education, shall provide the staff and support services for implementing this program.

(b) In order to carry out the purposes of this Article:

- (1) The Department of Public Instruction shall review applications and make recommendations to the State Board of Education concerning the awarding of contracts under this Article.
- (2) The State Board of Education shall contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to operate community-based educational and service programs designed to prevent the occurrence of abuse and neglect. Every contract entered into by the State Board of Education shall contain provisions that at least twenty-five percent (25%) of the total funding required for a program be provided by the administering organization in the form of in-kind or other services and that a mechanism for

evaluation of services provided under the contract be included in the services to be performed. In addition, every proposal to the Department of Public Instruction for funding under this Article shall include assurances that the proposal has been forwarded to the local department of social services for comment so that the Department of Public Instruction may consider coordination and duplication of effort on the local level as criteria in making recommendations to the State Board of Education.

- (3) The State Board of Education, with the assistance of the Department of Public Instruction, shall develop appropriate guidelines and criteria for awarding contracts under this Article. These criteria shall include, but are not limited to: documentation of need within the proposed geographical impact area; diversity of geographical areas of programs funded under this Article; demonstrated effectiveness of the proposed strategy or program for preventing abuse and neglect; reasonableness of implementation plan for achieving stated objectives; utilization of community resources including volunteers; provision for an evaluation component that will provide outcome data; plan for dissemination of the program for implementation in other communities; and potential for future funding from private sources.
- (4) The State Board of Education, with the assistance of the Department of Public Instruction, shall develop guidelines for regular monitoring of contracts awarded under this Article in order to maximize the investments in prevention programs by the Children's Trust Fund and to establish appropriate accountability measures for administration of contracts.

- (5) The State Board of Education shall develop a State plan for the prevention of abuse and neglect for submission to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(c) To assist in implementing this Article, the State Board of Education may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All monies received by the State Board of Education from contributions, grants, or gifts and not through appropriation by the General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds shall be on the authorization of the State Board of Education or that Board's duly authorized representative. In order to maintain an effective expenditure and revenue control, the funds are subject in all respects to State law and regulations, but no appropriation is required to permit expenditure of the funds.

(d) Programs contracted for under this Article are intended to prevent abuse and neglect of juveniles. Abuse and neglect prevention programs are defined to be those programs and services which impact on juveniles and families before any substantiated incident of abuse or neglect has occurred. These programs may include, but are not limited to:

- (1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and
- (2) Community-based programs relating to crisis care, aid to parents, and support groups for parents and their children experiencing stress within the family unit.

(e) No more than twenty percent (20%) of each year's total awards may be utilized for funding State-level programs to coordinate community-based programs.

§ 7B-1302. Children's Trust Fund.

There is established a fund to be known as the "Children's Trust Fund," in the Department of State Treasurer, which shall be funded by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the State Board of Education to fund abuse and neglect prevention programs so authorized by this Article.

ARTICLE 14.

North Carolina Child Fatality Prevention System.

§ 7B-1400. Declaration of public policy.

The General Assembly finds that it is the public policy of this State to prevent the abuse, neglect, and death of juveniles. The General Assembly further finds that the prevention of the abuse, neglect, and death of juveniles is a community responsibility; that professionals from disparate disciplines have responsibilities for children or juveniles and have expertise that can promote their safety and well-being; and that multidisciplinary reviews of the abuse, neglect, and death of juveniles can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a statewide multidisciplinary, multi-agency child fatality prevention system consisting of the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-1406. The purpose of the system is to assess the records of selected cases in which children are being served by child protective services and the records of all deaths of children in North Carolina from birth to age 18 in order to (i) develop a communitywide approach to the problem of child abuse and neglect, (ii) understand the causes of childhood deaths, (iii) identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to prevent future child abuse, neglect, or death, and (iv) make and implement recommendations for changes to laws, rules, and policies that will support

the safe and healthy development of our children and prevent future child abuse, neglect, and death.

§ 7B-1401. Definitions.

The following definitions apply in this Article:

- (1) Additional Child Fatality.—Any death of a child that did not result from suspected abuse or neglect and about which no report of abuse or neglect had been made to the county department of social services within the previous 12 months.
- (2) Local Team.—A Community Child Protection Team or a Child Fatality Prevention Team.
- (3) State Team.—The North Carolina Child Fatality Prevention Team.
- (4) Task Force.—The North Carolina Child Fatality Task Force.
- (5) Team Coordinator.—The Child Fatality Prevention Team Coordinator.

§ 7B-1402. Task Force—creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;

- (4) The Director of the State Bureau of Investigation;
 - (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
 - (6) The Director of the Governor's Youth Advocacy and Involvement Office;
 - (7) The Superintendent of Public Instruction;
 - (8) The Chairman of the State Board of Education;
 - (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
 - (10) The Secretary of the Department of Health and Human Services;
 - (11) The Director of the Administrative Office of the Courts;
 - (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
 - (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
 - (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
 - (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
 - (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
 - (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
 - (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
 - (19) Two public members, appointed by the Speaker of the House of Representatives;
 - (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
 - (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
 - (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
 - (23) Two public members, appointed by the President Pro Tempore of the Senate; and
 - (24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall

elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term.

§ 7B-1403. Task Force—duties.

The Task Force shall:

- (1) Undertake a statistical study of the incidences and causes of child deaths in this State and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;
- (2) Develop a system for multi-disciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing Local Teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;
- (3) Receive and consider reports from the State Team; and

- (4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate.

§ 7B-1404. State Team—creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Prevention Team within the Department of Health and Human Services for budgetary purposes only.

(b) The State Team shall be composed of the following 11 members of whom nine members are ex officio and two are appointed:

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of Health and Human Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services;
- (8) The Director of the Administrative Office of the Courts;
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task Force;
- (10) A public member, appointed by the Governor; and
- (11) The Team Coordinator.

The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team.

(c) All members of the State Team are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment.

§ 7B-1405. State Team—duties.

The State Team shall:

- (1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile pursuant to G.S. 7B-301 at any time before death;
- (2) Report to the Task Force during the existence of the Task Force, in the format and at the time required by the Task Force, on the State Team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children;
- (3) Upon request of a Local Team, provide technical assistance to the Team;
- (4) Periodically assess the operations of the multidisciplinary child fatality prevention system and make recommendations for changes as needed;
- (5) Work with the Team Coordinator to develop guidelines for selecting child deaths to receive detailed, multidisciplinary death reviews by Local Teams that review cases of additional child fatalities; and
- (6) Receive reports of findings and recommendations from Local Teams that review cases of additional child fatalities and work with the Team Coordinator to implement recommendations.

§ 7B-1406. Community Child Protection Teams; Child Fatality Prevention Teams; creation and duties.

(a) Community Child Protection Teams are established in every county of the State. Each Community Child Protection Team shall:

- (1) Review, in accordance with the procedures established by the director of the county department of social services under G.S. 7B-1409:

- a. Selected active cases in which children are being served by child protective services; and
- b. Cases in which a child died as a result of suspected abuse or neglect, and
 1. A report of abuse or neglect has been made about the child or the child's family to the county department of social services within the previous 12 months, or
 2. The child or the child's family was a recipient of child protective services within the previous 12 months.

- (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

In addition, each Community Child Protection Team may review the records of all additional child fatalities and report findings in connection with these reviews to the Team Coordinator.

(b) Any Community Child Protection Team that determines it will not review additional child fatalities shall notify the Team Coordinator. In accordance with the plan established under G.S. 7B-1408(1), a separate Child Fatality Prevention Team shall be established in that county to conduct these reviews. Each Child Fatality Prevention Team shall:

- (1) Review the records of all cases of additional child fatalities.
- (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.
- (3) Report findings in connection with these reviews to the Team Coordinator.
- (c) All reports to the Team Coordinator under this section shall include:
 - (1) A listing of the system problems identified through the review

- process and recommendations for preventive actions;
- (2) Any changes that resulted from the recommendations made by the Local Team;
 - (3) Information about each death reviewed; and
 - (4) Any additional information requested by the Team Coordinator.

§ 7B-1407. Local Teams; composition.

(a) Each Local Team shall consist of representatives of public and nonpublic agencies in the community that provide services to children and their families and other individuals who represent the community. No single team shall encompass a geographic or governmental area larger than one county.

(b) Each Local Team shall consist of the following persons:

- (1) The director of the county department of social services and a member of the director's staff;
 - (2) A local law enforcement officer, appointed by the board of county commissioners;
 - (3) An attorney from the district attorney's office, appointed by the district attorney;
 - (4) The executive director of the local community action agency, as defined by the Department of Health and Human Services, or the executive director's designee;
 - (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
 - (6) A member of the county board of social services, appointed by the chair of that board;
 - (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
 - (8) The local guardian ad litem coordinator, or the coordinator's designee;
 - (9) The director of the local department of public health; and
 - (10) A local health care provider, appointed by the local board of health.
- (c) In addition, a Local Team that reviews the records of additional child fatalities shall include the following five additional members:
- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
 - (2) A district court judge, appointed by the chief district court judge in that district;
 - (3) A county medical examiner, appointed by the Chief Medical Examiner;
 - (4) A representative of a local child care facility or Head Start program, appointed by the director of the county department of social services; and
 - (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.
- (d) The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority.
- (e) Each Local Team shall elect a member to serve as chair at the Team's pleasure.
- (f) Each Local Team shall meet at least four times each year.
- (g) The director of the local department of social services shall call the first meeting of the Community Child Protection Team. The director of the local department of health, upon consultation with the Team Coordinator, shall call the first meeting of the Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule the time and place of meetings, in consultation with these directors, and shall prepare the agenda. The chair

shall schedule Team meetings no less often than once per quarter and often enough to allow adequate review of the cases selected for review. Within three months of election, the chair shall participate in the appropriate training developed under this Article.

§ 7B-1408. Child Fatality Prevention Team Coordinator; duties.

The Child Fatality Prevention Team Coordinator shall serve as liaison between the State Team and the Local Teams that review records of additional child fatalities and shall provide technical assistance to these Local Teams. The Team Coordinator shall:

- (1) Develop a plan to establish Local Teams that review the records of additional child fatalities in each county.
- (2) Develop model operating procedures for these Local Teams that address when public meetings should be held, what items should be addressed in public meetings, what information may be released in written reports, and any other information the Team Coordinator considers necessary.
- (3) Provide structured training for these Local Teams at the time of their establishment, and continuing technical assistance thereafter.
- (4) Provide statistical information on all child deaths occurring in each county to the appropriate Local Team, and assure that all child deaths in a county are assessed through the multidisciplinary system.
- (5) Monitor the work of these Local Teams.
- (6) Receive reports of findings, and other reports that the Team Coordinator may require, from these Local Teams.
- (7) Report the aggregated findings of these Local Teams to each Local Team that reviews the records of additional child fatalities and to the State Team.
- (8) Evaluate the impact of local efforts to identify problems and make changes.

§ 7B-1409. Community Child Protection Teams; duties of the director of the county department of social services.

In addition to any other duties as a member of the Community Child Protection Team, and in connection with the reviews under G.S. 7B-1406(a)(1), the director of the county department of social services shall:

- (1) Assure the development of written operating procedures in connection with these reviews, including frequency of meetings, confidentiality policies, training of members, and duties and responsibilities of members;
- (2) Assure that the Team defines the categories of cases that are subject to its review;
- (3) Determine and initiate the cases for review;
- (4) Bring for review any case requested by a Team member;
- (5) Provide staff support for these reviews;
- (6) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law; and
- (7) Report quarterly to the county board of social services, or as required by the board, on the activities of the Team.

§ 7B-1410. Local Teams; duties of the director of the local department of health.

In addition to any other duties as a member of the Local Team and in connection with reviews of additional child fatalities, the director of the local department of health shall:

- (1) Distribute copies of the written procedures developed by the Team

Coordinator under G.S. 7B-1408 to the administrators of all agencies represented on the Local Team and to all members of the Local Team;

- (2) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Local Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law;
- (3) Provide staff support for these reviews; and
- (4) Report quarterly to the local board of health, or as required by the board, on the activities of the Local Team.

§ 7B-1411. Community Child Protection Teams; responsibility for training of team members.

The Division of Social Services, Department of Health and Human Services, shall develop and make available, on an ongoing basis, for the members of Local Teams that review active cases in which children are being served by child protective services, training materials that address the role and function of the Local Team, confidentiality requirements, an overview of child protective services law and policy, and Team record keeping.

§ 7B-1412. Task Force—reports.

The Task Force shall report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the General Assembly. The report shall contain at least a summary of the conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, or policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

§ 7B-1413. Access to records.

(a) The State Team, the Local Teams, and the Task Force during its existence, shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this Article, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. The State Team, the Task Force, and the Local Teams shall not, as part of the reviews authorized under this Article, contact, question, or interview the child, the parent of the child, or any other family member of the child whose record is being reviewed. Any member of a Local Team may share, only in an official meeting of that Local Team, any information available to that member that the Local Team needs to carry out its duties.

(b) Meetings of the State Team and the Local Teams are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local Teams may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session shall be sealed from public inspection.

(c) All otherwise confidential information and records acquired by the State Team, the Local Teams, and the Task Force during its existence, in the exercise of their duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential information and records created by a Local Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the Local

Team. No member of the State Team, a Local Team, nor any person who attends a meeting of the State Team or a Local Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(d) Each member of a Local Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

(e) Cases receiving child protective services at the time of review by a Local Team shall have an entry in the child's protective services record to indicate that the case was received by that Team. Additional entry into the record shall be at the discretion of the director of the county department of social services.

(f) The Social Services Commission shall adopt rules to implement this section in connection with reviews conducted by Community Child Protection Teams. The Health Services Commission shall adopt rules to implement this section in connection with Local Teams that review additional child fatalities. In particular, these rules shall allow information generated by an executive session of a Local Team to be accessible for administrative or research purposes only.

§ 7B-1414. Administration; funding.

(a) To the extent of funds available, the chairs of the Task Force and State Team may hire staff or consultants to assist the Task Force and the State Team in completing their duties.

(b) Members, staff, and consultants of the Task Force or State Team shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as the case may be, paid from funds appropriated to implement this Article and within the limits of those funds.

(c) With the approval of the Legislative Services Commission, legislative staff and space in the Legislative Building and the

Legislative Office Building may be made available to the Task Force.

Subchapter III. Juvenile Records.

ARTICLE 29.

Records and Social Reports of Cases of Abuse, Neglect, and Dependency.

§ 7B-2900. Definitions.

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter.

§ 7B-2901. Confidentiality of records.

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

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

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

(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 by order of the court except that the guardian ad litem, or juvenile, shall have the right to examine them.

(c) In the case of a child victim, the court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim.

(d) The court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem.

§ 7B-2902. Disclosure in child fatality or near fatality cases.

(a) The following definitions apply in this section:

- (1) Child fatality.—The death of a child from suspected abuse, neglect, or maltreatment.
- (2) Findings and information.—A written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
 - a. The dates, outcomes, and results of any actions taken or services rendered.
 - b. The results of any review by the State Child Fatality

Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.

- c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.
 - (3) Near fatality.—A case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.
 - (4) Public agency.—Any agency of State government or its subdivisions as defined in G.S. 132-1(a).
- (b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:
- (1) A person is criminally charged with having caused the child fatality or near fatality; or
 - (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family

unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

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

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

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

(f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 7B-1413 respectively.

Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

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

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

ARTICLE 31.

Disclosure of Juvenile Information.

§ 7B-3100. Disclosure of information about juveniles.

(a) The Department [of Juvenile Justice and Delinquency Prevention], after consultation with the Conference of Chief District Court Judges, shall adopt rules designating certain local agencies that are authorized to share information concerning juveniles in accordance with the provisions of this section. Agencies so designated shall share with one another, upon request, information that is in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that may be designated as "agencies authorized to share information" include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Department of Juvenile Justice and Delinquency Prevention, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any information shared among agencies pursuant to this section shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act

as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents.

ARTICLE 36.

Judicial Consent for Emergency Surgical or Medical Treatment.

§ 7B-3600. Judicial authorization of emergency treatment; procedure.

A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the General Statutes, whose physician is barred from rendering necessary treatment by reason of parental refusal to consent to treatment, may receive treatment with court authorization under the following procedure:

- (1) The physician shall sign a written statement setting out:
 - a. The treatment to be rendered and the emergency need for treatment;
 - b. The refusal of the parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court to consent to the treatment; and
 - c. The impossibility of contacting a second physician for a concurring opinion on the need for treatment in time to prevent immediate harm to the juvenile.
- (2) Upon examining the physician's written statement prescribed in subdivision (1) of this section and finding:

- a. That the statement is in accordance with this Article, and
- b. That the proposed treatment is necessary to prevent immediate harm to the juvenile.

The court may issue a written authorization for the proposed treatment to be rendered.

- (3) In acute emergencies in which time may not permit implementation of the written procedure set out in subdivisions (1) and (2) of this section, the court may authorize treatment in person or by telephone upon receiving the oral statement of a physician satisfying the requirements of subdivision (1) of this section and upon finding that the proposed treatment is necessary to prevent immediate harm to the juvenile.
- (4) The court's authorization for treatment overriding parental refusal to consent should not be given without attempting to offer the parent an opportunity to state the reasons for refusal; however, failure of the court to hear the parent's objections shall not invalidate judicial authorization under this Article.
- (5) The court's authorization for treatment under subdivisions (1) and (2) of this section shall be issued in duplicate. One copy shall be given to the treating physician and the other copy shall be attached to the physician's written statement and filed as a juvenile proceeding in the office of the clerk of court.
- (6) The court's authorization for treatment under subdivision (3) of this section shall be reduced to writing as soon as possible, supported by the physician's written statement as prescribed in subdivision (1) of this section and shall be filed as prescribed in subdivision (5) of this section.

The court's authorization for treatment under this Article shall have the same effect as parental consent for treatment.

Following the court's authorization for treatment and after giving notice to the juvenile's parent, guardian, or custodian the court shall conduct a hearing in order to provide for payment for the treatment rendered. The court may order the parent or other responsible parties to pay the cost

of treatment. If the court finds the parent is unable to pay the cost of treatment, the cost shall be a charge upon the county when so ordered.

This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903, 7B-2503, and 7B-2506.