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3

Children and Families/ Juvenile Law

The 2002 General Assembly made very few changes in the Juvenile Code or other laws relating to children and families. It did, however, follow the lead of a number of other states in creating an Amber Alert system to expedite the dissemination of information regarding abducted children.

In addition, the General Assembly made several changes to assist victims of domestic violence. Those changes are procedural in nature and are discussed in Chapter 5, “Courts and Civil Procedure.”

Juvenile Justice and Delinquency Prevention

Destruction of Juvenile Court Records

S.L. 2002-159 (S 1217) rewrites G.S. 7B-3000(g) to provide that the Administrative Office of the Courts (not the Department of Juvenile Justice and Delinquency Prevention) is authorized to adopt rules relating to the destruction of court records in cases involving undisciplined or delinquent juveniles.

Department of Juvenile Justice and Delinquency Prevention

The state's budget crisis resulted in substantial cuts for the Department of Juvenile Justice and Delinquency Prevention (DJJDP). Under S.L. 2002-126 (S 1115), appropriations to the department included

- more than \$1.4 million in TANF Block Grant funds, designated for support and statewide expansion of the Support Our Students Program with a focus on low-income communities in unserved areas;
- TANF funds in the amount of \$550,000, designated for grants to Boys and Girls Clubs;
- \$448,660 for Juvenile Crime Prevention Councils, to be allocated by DJJDP for the continuation of teen court programs that received direct state appropriations from DJJDP in 2001–2002.

HIV/AIDS Education

Under section 5.1.(t) of S.L. 2002-126, DJJDP, like several other departments, is required to incorporate developmentally appropriate HIV/AIDS education, awareness, and outreach information into its programs.

Juvenile Facilities

S.L. 2002-126 authorizes DJJDP to use funds available in 2002–2003 to establish or reestablish youth development center beds, reestablish one multipurpose group home, and convert up to fifty beds in one Eckerd Wilderness Camp to secure confinement beds for use as a youth development center. If the department determines that it needs additional youth development center beds, the act directs it to consider reestablishing beds at Samarkand Manor Youth Development Center.

S.L. 2002-126 requires DJJDP to consult with the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee before

- converting any Eckerd Wilderness Camp beds to secure confinement beds,
- establishing a bed capacity level greater than 730 beds, or
- reestablishing the multipurpose group home authorized by the act.

S.L. 2002-126 authorizes DJJDP to initiate the planning and design of a new 300- to 500-bed youth development center using funds allocated to the Department of Administration for that purpose. By February 15, 2003, DJJDP must report on its progress in the planning and design phase and provide a preliminary report on how its plan for a new center will ensure effective security and programming while achieving staffing efficiencies.

Out-of-Home Placements

Tracking Placements

In 2001 the General Assembly created the Comprehensive Treatment Services Program (sec. 21.60 of S.L. 2001-424) to provide treatment and services for children who are at risk for institutionalization or other out-of-home placement. S.L. 2002-164 (S 163) amends the 2001 law to require that the program information reported by the Department of Health and Human Services (DHHS) include a method of identifying and tracking children placed outside the family unit in group homes or therapeutic foster care home settings. The department must report that information by April 1, 2003, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Department of Health and Human Services Rules

S.L. 2002-164 rewrites G.S. 143B-139.1 and G.S. 150B-21.1 to give the Secretary of Health and Human Services authority to adopt and enforce rules governing

- the placement of individuals in licensable facilities located outside the individual's community and providers' ability to return the individual to the individual's community as soon as possible without detriment to the individual or the community;
- the monitoring of mental health, developmental disability, and substance abuse services;
- communication procedures between an area authority or county program, the local department of social services, the local education authority, and the criminal justice agency, if involved, regarding the placement of the individual outside the individual's community and the transfer of the individual's records in accordance with law; and
- the enrollment and revocation of enrollment of Medicaid providers who have been previously sanctioned by the department.

Placements under the Juvenile Code

Effective October 23, 2002, S.L. 2002-164 amends four sections of the Juvenile Code to require the court to consider, in placing a juvenile in out-of-home care, whether it is in the juvenile's best interest to remain in the juvenile's community of residence. This new requirement will come into play under

1. G.S. 7B-505, when the court orders nonsecure custody for a juvenile who is alleged to be abused, neglected, or dependent.
2. G.S. 7B-903(a)(2)c., when the court orders out-of-home care as a disposition in an abuse, neglect, or dependency proceeding.
3. G.S. 7B-2502, when the court orders out-of-home care as part of a disposition that includes evaluation or treatment of an undisciplined or delinquent juvenile.
4. G.S. 7B-2503, when the court orders out-of-home care as part of a disposition for an undisciplined juvenile.

Children with Special Needs

S.L. 2002-126 appropriates \$1 million to establish the Ruth M. Easterling Trust Fund for Children with Special Needs. The fund may be used to provide respite services for adoptive children, foster children, and special needs children who are at risk for out-of-home placement; to provide special needs children with necessary special mobility equipment and surgery to repair congenital abnormalities; and to provide training to parents and caregivers of special needs children. The Secretary of Health and Human Services must adopt rules to implement this new program and must submit a report regarding use of the trust fund to the Senate Appropriations Committee on Health and Human Services and the House Appropriations Subcommittee on Health and Human Services by March 1, 2003.

Adoption

S.L. 2002-159 rewrites G.S. 48-2-601 to provide that if an issue of fact, an equitable defense, or a request for equitable relief is raised before the clerk in an adoption proceeding, the clerk must transfer the proceeding to the district court under G.S. 1-301.2. This is not a change in the law; it repeats in the adoption chapter a requirement that exists already under G.S. 1-301.2.

Child Alert Notification System (Amber Alert)

Section 18.7 of S.L. 2002-126 adds new G.S. 143B-499.7 establishing in the North Carolina Center for Missing Persons a new North Carolina Child Alert Notification System (NC CAN) to provide a statewide system for rapid dissemination of information regarding abducted children. The criteria for dissemination of information through the system are:

1. the child is twelve years of age or younger,
2. the child is believed to have been abducted,
3. the child is believed to be in danger of injury or death,
4. the abduction is not known or suspected to be by a parent of the child,
5. the child is not a runaway or voluntarily missing, and
6. the abduction has been reported to and investigated by a law enforcement agency.

The system may decide, on a case-by-case basis, to disseminate information (1) on children ages thirteen to seventeen, if all of the above criteria except number 1 are met; and (2) on children whose abduction is known or suspected to be by a parent, if the child is believed to be in danger of injury or death.

S.L. 2002-126 requires the Center for Missing Persons to adopt guidelines and develop procedures for implementing the system; provide education and training to encourage media participation in the system; work with the Department of Justice to develop training materials for law enforcement, broadcasters, and community interest groups; consult with the Department of Transportation and develop a procedure for using overhead permanent changeable message signs to provide information on abducted children; and consult with the Division of Emergency Management in the Department of Crime Control and Public Safety to develop a procedure for using the Emergency Alert System to provide information on abducted children.

Youth Advocacy and Involvement Office

Although it appeared for a brief period as though the Youth Advocacy and Involvement Office would be abolished, the office will continue in the Department of Administration through June 30, 2003. S.L. 2002-126 requires the Secretary of Administration to present to the chairs of the Joint Appropriations Subcommittee on General Government, by January 31, 2003, a plan or recommendation for reorganizing the office. The recommendation may call for the office and its functions to be maintained within the Department of Administration or transferred to another agency or a nonprofit organization.

Marriage

Solemnization

S.L. 2002-159 corrects an error that occurred during the 2001 session when the language in G.S. 51-1 requiring an officiant to declare the persons husband and wife was inadvertently dropped from the statute. The act restores that language and also provides that any otherwise valid marriage that occurred during the time the language was not in the statute is not invalid on the basis that there was no formal declaration that the persons were husband and wife.

Special Provisions Allowing Judges to Officiate

S.L. 2002-115 (H 1581) amends G.S. 51-1 to (1) authorize resident or emergency superior court judges to perform marriage ceremonies between November 25, 2002, and December 1, 2002; and (2) authorize district court judges to perform marriage ceremonies between September 19, 2002, and September 22, 2002.

License

G.S. 51-8 refers to the kinds of evidence a register of deeds may require when making a determination of whether two people are authorized to marry (for example, certified copies of birth certificates). S.L. 2002-159 deletes that section's reference to "birth registration cards provided for in G.S. 130-73," which was an outdated reference.

Equitable Distribution

In 1997 the General Assembly created a new classification of property subject to distribution by the court when spouses separate and divorce. The new classification, divisible property, was created to give courts more authority to deal with changes in the financial conditions of the parties that occur between the time of separation and the time of the equitable distribution trial. *See* G.S. 50-20(b)(4). While, to a limited degree, the 1997 amendments addressed changes in the marital debt of the parties during separation by permitting a court to divide increases in debt between the parties, the amendments did not address the difficult issue of how to account for payments of marital debt made by one party during separation. Section 33.5 of the technical corrections act, S.L. 2002-159, addresses that issue by amending the definition of divisible property. Effective October 11, 2002, divisible property includes decreases in marital debt. This amendment requires the court to identify and value all payments made by one spouse after separation and to account for those payments in the final distribution of property.

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