

# Contents

## Introduction to the Manual

## About the Author and Acknowledgments

## Chapter 1: Overview of the North Carolina Child Welfare System 1-1

### 1.1 Introduction to Child Welfare 1-2

- A. Child Welfare Services
- B. Purpose
  - 1. Balancing the state's interests with constitutional rights of parents and children
  - 2. Purposes of North Carolina's Juvenile Code
- C. Overview of a Child Welfare Case in North Carolina
- D. Demographics
  - 1. National data
  - 2. North Carolina data

### 1.2 Federal-State-County System 1-11

- A. County-State Structure and Relationship
- B. The County DSS
  - 1. Governing structure and staff
  - 2. DSS role and responsibilities
- C. Federal-State-County Funding
- D. Federal-State Relationship
  - 1. Child and Family Service Review (CFSR)
  - 2. The IV-E eligibility review

### 1.3 State and Federal Sources of Authority: Laws, Rules, and Policy 1-20

- A. North Carolina
  - 1. The Juvenile Code: G.S. Chapter 7B
  - 2. The Administrative Code: Title 10A
  - 3. Child Welfare Manual
  - 4. Other relevant North Carolina statutes
  - 5. Local court rules
- B. Influence of Federal Law
  - 1. The Child Abuse Prevention and Treatment Act (CAPTA)
  - 2. The Indian Child Welfare Act (ICWA)
  - 3. Adoption Assistance and Child Welfare Act
  - 4. Family Preservation and Support Services Program Act
  - 5. Multiethnic Placement Act (MEPA-IEP)
  - 6. Adoption and Safe Families Act (ASFA)
  - 7. John H. Chafee Foster Care Independence Act
  - 8. Safe and Timely Interstate Placement of Foster Children Act
  - 9. Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections)
  - 10. Preventing Sex Trafficking and Strengthening Families Act
  - 11. Justice for Victims of Trafficking Act
  - 12. Family First Prevention Services Act (FFPSA)

## **Chapter 2: The Court, Key People, and the Rights of Children and Parents 2-1**

### **2.1 The Juvenile Court and Officials 2-3**

- A. The Court
  - 1. District court is juvenile court
  - 2. Juvenile court sessions
  - 3. J Wise system
  - 4. Juvenile Rules of Recordkeeping
- B. Judicial Officials and Staff
  - 1. Juvenile court judge
  - 2. Chief district court judge
  - 3. Juvenile court clerk
  - 4. Juvenile court case manager or coordinators

### **2.2 Key People: Who's Who in the System 2-7**

- A. Introduction
- B. The People: Explanation of Roles
  - 1. Social services director
  - 2. Social services caseworkers
  - 3. Social services attorney
  - 4. The child or juvenile
  - 5. The child's guardian ad litem
  - 6. Parent
  - 7. Parent's attorney
  - 8. Parent's guardian ad litem
  - 9. Custodians, guardians, and caretakers
  - 10. Relatives
  - 11. Nonrelative kin
  - 12. Foster parents
  - 13. Law enforcement
  - 14. District attorney or prosecutor
  - 15. Other professionals and their agencies
  - 16. Persons involved in other court proceedings affecting the family

### **2.3 The Child 2-17**

- A. Introduction
- B. Definitions of Abused, Neglected, or Dependent Juveniles
  - 1. Abused juvenile
  - 2. Neglected juvenile
  - 3. Dependent juvenile
- C. Rights of the Child
  - 1. Right to participate and be heard
  - 2. Best interests and legal rights representation
  - 3. Foster Care Children's Bill of Rights
- D. The Child's Guardian ad Litem
  - 1. Introduction
  - 2. North Carolina GAL Program establishment and structure
  - 3. GAL team representation: volunteer, attorney advocate, and staff
  - 4. Role and responsibilities of the GAL
  - 5. Fees for child's GAL attorney advocate and experts

**2.4 Rights of the Parent 2-40**

- A. Protection of Parent-Child Relationship
  - 1. Generally
  - 2. U.S. Supreme Court
  - 3. North Carolina appellate courts
- B. Notice and Opportunity to Be Heard
  - 1. Entitled to due process
  - 2. Participation in hearings
- C. DSS Perspective
- D. Representation
  - 1. Right to counsel
  - 2. Appointment of counsel
  - 3. Waiver of counsel
  - 4. Forfeiture of counsel
  - 5. Withdrawal of counsel
  - 6. Ineffective assistance of counsel
  - 7. Payment of counsel and reimbursement of fees
- E. Funds for Experts and Other Expenses
  - 1. Expenses of representation
  - 2. Standard for obtaining expenses
  - 3. Parent's ex parte motion
- F. Guardian ad Litem for Parent
  - 1. Circumstances for appointment and legislative history
  - 2. Privileged communications
  - 3. Timing and source of GAL appointment
  - 4. Who may serve as GAL
  - 5. Determination of incompetence
  - 6. Role of the parent's GAL
  - 7. Payment of parent's GAL

**Chapter 3: Jurisdiction, Venue, and Overlapping Proceedings 3-1****3.1 Summary and Scope of Jurisdiction Issues 3-3**

- A. Introduction
- B. District Court Jurisdiction
- C. Continuing and Ending Jurisdiction in Abuse, Neglect, or Dependency Proceedings
- D. Terminology Related to Continuing and Ending Jurisdiction
  - 1. Terminate jurisdiction
  - 2. Waive permanency planning hearings
  - 3. Caution about "closing a case"

**3.2 Subject Matter Jurisdiction 3-9**

- A. Introduction
- B. Key Issues in Determining Subject Matter Jurisdiction
  - 1. Proper petitioner
  - 2. Proper initiation of proceedings
  - 3. Verified petition or motion
  - 4. Indian Child Welfare Act
  - 5. Uniform Child-Custody Jurisdiction and Enforcement Act

- 6. Parental Kidnapping Prevention Act
- 7. Residence/Location of child
- C. Issues That Do Not Affect Subject Matter Jurisdiction
  - 1. Defects in or lack of summons
  - 2. Failure to include certain information in petition
  - 3. Statutory timelines
  - 4. Different courts for abuse, neglect, dependency, and TPR actions

### **3.3 Uniform Child-Custody Jurisdiction and Enforcement Act and Parental Kidnapping Prevention Act 3-22**

- A. Introduction
- B. Applicability of the UCCJEA: G.S. Chapter 50A
  - 1. Abuse, neglect, dependency, and termination of parental rights
  - 2. Inapplicability
  - 3. Indian Child Welfare Act controls
  - 4. Foreign countries
- C. Jurisdictional Basis for Making Custody Determination under the UCCJEA
  - 1. Initial child custody jurisdiction
  - 2. Modification jurisdiction: exclusive continuing jurisdiction and convenient forum
  - 3. Temporary emergency jurisdiction
  - 4. Simultaneous proceedings
  - 5. Information concerning child's status (affidavit)
- D. Evidence, Findings, and Conclusions of Law
- E. Communication Requirements
  - 1. Communication between courts
  - 2. Record of communications between courts
- F. Hearings
  - 1. Judicial cooperation and appearance of parties
  - 2. Notice and opportunity to be heard
  - 3. Testimony in another state
- G. Deployed Parents
- H. Enforcement of Custody Orders under the UCCJEA
  - 1. Enforcement generally
  - 2. Temporary visitation
  - 3. Registration and confirmation of orders from other states
  - 4. Expedited enforcement procedure
  - 5. Prosecutor's role
- I. Parental Kidnapping Prevention Act: 28 U.S.C. 1738A
  - 1. Applicability in abuse, neglect, dependency, and termination of parental rights actions
  - 2. Terms
  - 3. Jurisdiction
  - 4. Notice and opportunity to be heard

### **3.4 Personal Jurisdiction 3-49**

- A. Introduction
- B. Service of Process
  - 1. Who must be served
  - 2. Proper service

- C. Consent and Waiver Establishing Personal Jurisdiction
  - 1. Making an appearance
  - 2. Failing to raise the defense
- D. Acquiring Personal Jurisdiction in Abuse, Neglect, Dependency Cases
  - 1. Statutory provisions
  - 2. Permanent custodians and guardians
- E. Out-of-State Parents in Termination of Parental Rights Cases
  - 1. Juvenile Code requires only service
  - 2. No minimum contacts required
  - 3. Service on respondent temporarily in state
  - 4. UCCJEA does not require personal jurisdiction

### **3.5 Venue 3-57**

- A. Introduction
- B. Proper Venue
  - 1. Where to initiate an abuse, neglect, or dependency action
  - 2. Defining “residence”
- C. Transfer of Venue in Abuse, Neglect, or Dependency Cases
  - 1. Pre-adjudication change of venue
  - 2. Post-adjudication change of venue
- D. Transfer of Venue in Termination of Parental Rights Cases

### **3.6 Overlapping Proceedings 3-60**

- A. Civil Custody Proceedings
  - 1. Jurisdiction, consolidation, and stays
  - 2. Civil custody as the permanent plan
  - 3. Priority of conflicting orders
  - 4. Termination of parental rights
- B. Juvenile Delinquency and Undisciplined Proceedings
  - 1. Simultaneous proceedings
  - 2. DSS custody from delinquency or undisciplined proceeding
  - 3. Representation of the juvenile
- C. Criminal Proceedings
  - 1. Evidentiary issues
  - 2. Defendant’s participation in an abuse, neglect, or dependency proceeding
  - 3. Access to information and people
  - 4. Timing of the two proceedings
- D. Domestic Violence Protection Proceedings

## **Chapter 4: Procedural Rules and Orders 4-1**

### **4.1 Introduction 4-3**

- A. Applicability of Rules of Civil Procedure in Juvenile Proceedings
  - 1. Rules apply when explicitly required by the Juvenile Code
  - 2. A rule or part of a rule will not apply where the Juvenile Code provides a different procedure
  - 3. Rules or parts of rules apply when required to fill procedural gaps
  - 4. Rules may not be used to confer rights
- B. Rule Application Analysis

<b>4.2</b>	<b>Procedures Regarding the Petition</b>	<b>4-8</b>
	A. Contents of Petition	
	B. Signature of Attorney or Party	
	C. Amended and Supplemental Pleadings	
	1. Amendments in abuse, neglect, or dependency proceedings	
	2. Amendments in termination of parental rights proceedings	
	3. Supplemental pleadings	
	D. Responsive Pleadings	
<b>4.3</b>	<b>Summons</b>	<b>4-12</b>
	A. Content and Issuance of Summons	
	1. Signature of clerk	
	2. Timing	
	3. Who receives summons	
	4. Service requirements when summons is not required	
	B. Expiration of Summons	
<b>4.4</b>	<b>Service</b>	<b>4-14</b>
	A. The Impact of Service	
	B. Summons	
	1. Service by delivery	
	2. Service by publication	
	3. Service in a foreign country	
	C. Notice and Motions	
<b>4.5</b>	<b>Continuances</b>	<b>4-22</b>
	A. Continuances Disfavored	
	B. Abuse, Neglect, Dependency Proceedings	
	C. Termination of Parental Rights Proceedings	
	D. Considerations	
	1. Party's own actions	
	2. Absence of parent, notice of hearing concerns	
	3. Absence of witness	
	4. Heavy dockets	
	5. Time to prepare	
	6. Delay, prejudice, and the remedy of mandamus	
<b>4.6</b>	<b>Discovery</b>	<b>4-27</b>
	A. Discovery Generally	
	B. The Juvenile Code and Discovery	
	1. DSS sharing of information	
	2. GAL sharing of information	
	3. Local rules	
	4. Discovery procedure and methods	
	5. Discovery motions	
	6. Continuances related to discovery	
	7. Redisclosure	
<b>4.7</b>	<b>Intervention</b>	<b>4-30</b>
	A. Abuse, Neglect, Dependency Proceedings	

**B. Termination of Parental Rights Proceedings**

1. Intervention of right
2. Permissive intervention
3. Procedure for intervening

**4.8 Motions in Juvenile Proceedings 4-33****4.9 Judgments and Orders 4-34****A. Drafting Orders**

1. Who drafts the order
2. Responsibility of the court
3. Circulating draft orders
4. Presiding judge must sign order

**B. Findings of Fact and Conclusions of Law**

1. Separation of findings of fact and conclusions of law
2. Findings of fact
3. Conclusions of law

**C. Entry and Service of the Order**

1. What constitutes entry
2. Serving the order

**D. Time Requirements for Orders**

1. Entry of order within thirty days
2. Clerk's duty to reschedule when entry is late
3. Remedy for untimely orders is mandamus

**Chapter 5: From Report through Pre-Adjudication in Abuse, Neglect, Dependency Cases 5-1****5.1 How a Case Enters the System 5-4****A. Reporting Suspected Abuse, Neglect, or Dependency**

1. Failure to report
2. Manner of report
3. No privilege; narrow exception for attorneys
4. Immunity
5. Other reporting laws
6. Report may trigger DSS notification to other agencies
7. DSS determines whether the report indicates abuse, neglect, or dependency

**B. DSS Assessment of Report**

1. Conflict of Interest
2. Multiple response system
3. Timing of assessment
4. Family privacy
5. Confidentiality
6. Military affiliation of parent, guardian, custodian, or caretaker
7. Other juveniles
8. Assessing need for immediate removal, providing protective services
9. Parent refusing services
10. Physical abuse may require mental health evaluation

- C. **DSS Access to Information**
  - 1. Access to all relevant information
  - 2. Criminal investigative information
- D. **Notice to the Reporter**
  - 1. After DSS receipt of report
  - 2. After DSS completion of assessment
  - 3. Right to seek review
- E. **Review by Prosecutor**
  - 1. Timing
  - 2. Substance of review
  - 3. Outcome of review
- F. **Law Enforcement Involvement**
  - 1. DSS to report to law enforcement
  - 2. The criminal investigation
  - 3. Abandonment reported
  - 4. Relationship between DSS and law enforcement
  - 5. DSS cooperation with law enforcement when minor victim of human trafficking
- G. **Interference with DSS Assessment**
  - 1. Meaning of interference or obstruction
  - 2. Requirements for petition for interference
  - 3. File with clerk or magistrate
  - 4. Service and notice
  - 5. Hearing
  - 6. Cease interference order
  - 7. Ex parte action and orders
  - 8. Enforceability

## **5.2 Central Registry and Responsible Individuals List 5-16**

- A. **Central Registry**
- B. **Responsible Individuals List**
  - 1. Abuse, serious neglect, responsible individual
  - 2. Notice to the responsible individual
  - 3. Placement on the RIL
  - 4. Right to judicial review
  - 5. Scheduling the judicial review hearing
  - 6. The hearing
  - 7. The court order
  - 8. Confidentiality

## **5.3 Starting the Abuse, Neglect, Dependency Court Action 5-23**

- A. **The Petition**
  - 1. Proper petitioner
  - 2. Venue
  - 3. File with clerk or magistrate
  - 4. Substance of petition
  - 5. More than one child
  - 6. Verification essential
  - 7. DSS dismissal of petition
  - 8. Amendment of the petition



B.	The Summons and Process	
1.	Timing	
2.	Substance of summons	
3.	Who receives summons	
4.	Petition and notice to the child’s GAL	
5.	Service of petition and summons	
<b>5.4</b>	<b>Parties, Appointment of Counsel, and Guardians ad Litem</b>	<b>5-27</b>
A.	Parties to the Proceeding	
B.	Parents and Other Care Providers	
1.	Parent is a party	
2.	Guardians, custodians, and caretakers	
3.	Appointment of respondent’s counsel	
4.	Appointment of guardian ad litem for parent	
5.	Significance of uninvolved, missing, or unknown parents	
6.	Serving a missing parent	
7.	Paternity and putative fathers	
8.	Same-sex parents	
C.	The Child	
1.	Child is a party	
2.	Appointment of a guardian ad litem under G.S. 7B-601	
D.	Department of Social Services	
<b>5.5</b>	<b>Purpose and Requirements of Temporary and Nonsecure Custody</b>	<b>5-37</b>
A.	Purpose of Temporary and Nonsecure Custody	
B.	Temporary Custody	
1.	Circumstances for temporary custody	
2.	Length of temporary custody	
3.	Newborn abandonment (“safe surrender”)	
4.	Medical professionals	
5.	Duties of person with temporary custody	
C.	Nonsecure Custody	
1.	Procedure to obtain the initial nonsecure custody order	
2.	Criteria for initial and continued nonsecure custody orders	
3.	Place of nonsecure custody	
4.	Visitation	
5.	Medical decision-making	
6.	Violent caregivers	
<b>5.6</b>	<b>Nonsecure Custody Hearings</b>	<b>5-46</b>
A.	Summary	
B.	Timing	
1.	The first hearing on the need for continued nonsecure custody	
2.	Second and subsequent hearings	
3.	Hearings by party request	
C.	Jurisdictional Inquiry	
D.	Nature of Hearing: Evidence and Burden of Proof	
E.	Findings and Other Issues at the Hearing on the Need for Continued Nonsecure Custody	
F.	Limits on Court’s Authority at Nonsecure Custody Stage	

- G. Requirements for Court Orders
- H. Nonsecure Custody Order Is Not Appealable

## **5.7 Pre-adjudication Hearings, Conferences, and Mediation 5-50**

- A. Pre-adjudication Hearing
- B. Child Planning Conferences
- C. Permanency Mediation

## **Appendix 5-1: Table of Differences for Mandated Reporting under G.S. 7B-301 and G.S. 14-318.6 5-53**

## **Appendix 5-2: Mandated Reporting Flowchart 5-55**

# **Chapter 6: Adjudication of Abuse, Neglect, or Dependency 6-1**

## **6.1 Summary and Purpose of Adjudication 6-2**

## **6.2 The Adjudication 6-3**

- A. Procedure for Adjudication
- B. Timing
- C. Public Access to Hearing
- D. Record of Proceedings
- E. Petition Controls Scope of Adjudication

## **6.3 Evidence and Proof 6-7**

- A. Child's Status, Standard, and Burden of Proof
- B. Evidentiary Standards
- C. Evidence at Adjudication
  - 1. Stipulations
  - 2. Findings of facts must meet statutory definition
  - 3. Evidence of abuse, neglect, or dependency in other types of hearings
- D. Evidence to Establish Abuse
  - 1. Definition of abuse
  - 2. Evidence related to abuse
- E. Evidence to Establish Neglect
  - 1. Definition of neglect
  - 2. Evidence related to neglect
- F. Evidence to Establish Dependency
  - 1. Definition of dependency
  - 2. Evidence related to dependency

## **6.4 Adjudication Order 6-39**

- A. General Requirements
  - 1. Condition not proved
  - 2. Condition proved
- B. Findings of Fact and Conclusions of Law

## **6.5 Consent Orders 6-41**

## **6.6 Consequences of Adjudication 6-42**

- A. Continued Jurisdiction and Authority for Disposition
- B. Impact on Parents and Future Proceedings

## **Chapter 7: Dispositional Phase: Initial, Review, and Permanency Planning 7-1**

### **7.1 Introduction and Purpose of Dispositional Phase 7-4**

- A. Introduction
- B. Purpose of Disposition
  - 1. Exercise jurisdiction to address child’s needs
  - 2. Careful consideration of needs and circumstances
  - 3. Respect for family autonomy
  - 4. Preference for placement with relative when no reunification
  - 5. Fair procedures and protection of rights
  - 6. Child’s best interests
  - 7. Safe, permanent home within a reasonable period of time
- C. Significant Legislative Changes regarding Review and Permanency Planning Hearings

### **7.2 Dispositional Hearings 7-13**

- A. Timing and When Required
  - 1. Initial dispositional hearing
  - 2. Review hearing
  - 3. Permanency planning hearing
  - 4. Waiving review and permanency planning hearings
  - 5. Modification hearings under G.S. 7B-1000
- B. Notice and Calendaring
- C. Participants
- D. Open or Closed Hearings
- E. Evidentiary Standard and Burden of Proof
  - 1. Relevant, reliable, and necessary evidence
  - 2. No burden of proof
  - 3. Reports

### **7.3 Best Interests of the Child 7-25**

### **7.4 Dispositional Alternatives: Placement and Custody 7-27**

- A. Dismiss or Continue the Case
  - 1. Dismiss the case
  - 2. Continue the case
- B. In-Home Supervision and Services
- C. Parent and Out-of-Home Placement Generally
  - 1. Placement priority: parents and relatives
  - 2. Sibling placement
  - 3. Child’s own community
  - 4. Required findings
  - 5. Meaning and impact of “custody” and “placement”
- D. DSS Custody
  - 1. Notice to GAL of change in placement
  - 2. Court approval for return home and/or unsupervised visitation
  - 3. DSS authority to consent to child’s medical care
  - 4. Reasonable and prudent parent standard
- E. Custody with a Parent, Relative, Other Suitable Person or Private Agency
  - 1. Custody to a parent, relative, other suitable person, or private agency
  - 2. Verification required

- 3. Return to caregiver with violent history
- 4. Joint custody is permissible
- 5. Changes to the custody order
- 6. Consideration of transfer to civil custody action
- F. Guardianship**
  - 1. Appointment
  - 2. Verification required
  - 3. Role of guardian
  - 4. Duration of the guardianship
- G. Verification of Understanding of Legal Significance and Adequate Resources**
- H. Interstate Compact on the Placement of Children**
  - 1. Introduction and purpose
  - 2. State and agency structure
  - 3. Source of requirements and procedures
  - 4. Applicability of ICPC
  - 5. The ICPC and placement with a non-removal parent or relative
  - 6. The ICPC and visitation
  - 7. Summary requirements of the ICPC and Regulations
  - 8. Illegal placements

## **7.5 Visitation 7-57**

- A. Order Must Address Visitation When Out-of-Home Placement**
  - 1. Minimum outline of visits required
  - 2. Cost of supervision
  - 3. Electronic communication
  - 4. No visitation based on child's health, safety, and best interest
  - 5. DSS responsibility; court approval
  - 6. Guardians and custodians
  - 7. Suspension of visitation
  - 8. No denial because of positive drug screen results
  - 9. The juvenile's preference
- B. Review of Visitation Plan, Notice to Parties, Mediation**

## **7.6 Evaluation and Treatment of Child 7-65**

- A. Court's Authority to Order Evaluation and Treatment**
- B. Hearing to Determine Treatment Needs and Payment**
  - 1. County involvement
  - 2. Treatment arrangements
  - 3. Treatment costs
  - 4. Mental illness or developmental disability
- C. Mental Health Treatment at Hospital Emergency Department and Emergency Motion**
  - 1. Juvenile presenting at hospital for mental health treatment
  - 2. Emergency motion for placement and payment

## **7.7 Court's Authority over Parents and Others 7-70**

- A. Treatment and Counseling**
  - 1. Participation in child's treatment
  - 2. Evaluations and treatment of parents and others

- B. Parenting Classes, Transportation, Remedial Steps, and Other Orders
  - 1. Addressing indirect and direct causes of removal or adjudication
  - 2. Medication-assisted treatment
- C. Cost Responsibilities
  - 1. Child support
  - 2. Treatment of child or participating adult
  - 3. Treatment of parent or others
- D. Failure to Comply with Court Orders
- E. Court's Authority over DSS
- F. Court's Authority over Child's GAL
- G. Limitations on Court's Dispositional Authority

## **7.8 Dispositional Considerations and Findings 7-76**

- A. Initial Dispositional Hearing
  - 1. Inquiry as to missing parent, paternity, and relatives required
  - 2. Consideration of G.S. 7B-901(c) factors and reasonable efforts
- B. Required Criteria for Review and Permanency Planning Hearings
  - 1. Reunification efforts
  - 2. Continuation in home of parent, guardian, or custodian
  - 3. Visitation
  - 4. Placement
  - 5. Independent living
  - 6. Any other criteria
- C. Permanency Planning Additional Requirements
  - 1. Returning home
  - 2. Guardianship or custody
  - 3. Adoption
  - 4. Change in current placement
  - 5. Reasonable efforts to implement permanent plan
  - 6. Other criteria
  - 7. Permanent plan
  - 8. Reasonable efforts findings
  - 9. Youth in DSS custody at age 14 and older
- D. Initiation of Termination of Parental Rights Proceeding under Certain Circumstances
- E. Hearing to Modify a Dispositional Order

## **7.9 Reasonable Efforts 7-90**

- A. Introduction
- B. Statutory Definitions: Reasonable Efforts, Return Home, Reunification
- C. Required Findings
- D. Ceasing Reasonable Efforts
- E. The Americans with Disabilities Act

## **7.10 Concurrent Permanency Planning and Outcomes 7-100**

- A. Concurrent Permanency Planning
  - 1. Concurrent permanent plans not required
  - 2. Priority for reunification; eliminate reunification

**B. Achieving a Permanent Plan**

1. Reunification
2. Adoption
3. Guardianship
4. Custody
5. Findings as to parent's constitutional rights before custody or guardianship to non-parent
6. APPLA
7. Reinstatement of parental rights

**7.11 Dispositional Orders 7-115**

- A. Timing
- B. General Requirements
  1. Findings and conclusions
  2. Precise terms
  3. Set next hearing
  4. Compliance with UCCJEA, ICPC, MEPA, and ICWA
- C. Consent Orders
- D. Status of Jurisdiction

**Chapter 8: Voluntary Placements of Juveniles and Foster Care 18-21 8-1****8.1 Introduction 8-1****8.2 Voluntary Placement Agreement for a Juvenile 8-2**

- A. The Agreement
- B. Judicial Reviews, Timing, and Duration
- C. Purpose and Requirements of Hearing

**8.3 Foster Care 18-21 8-4**

- A. Introduction
- B. Eligibility and the Agreement
- C. Judicial Reviews, Timing, and Parties
- D. Requirements of the Hearing
- E. Terminating the Agreement

**Chapter 9: Termination of Parental Rights 9-1****9.1 Purpose and Overview of Termination of Parental Rights 9-5**

- A. Overview of Termination of Parental Rights
- B. Purpose of the Juvenile Code's Termination of Parental Rights Provisions
  1. Procedures
  2. Balancing needs
  3. Child's best interests
  4. No circumvention of UCCJEA

**9.2 Jurisdiction and Procedure 9-7**

- A. Subject Matter Jurisdiction
- B. Personal Jurisdiction
- C. Applicability of the Rules of Civil Procedure

**9.3 Initiation of Proceedings and Standing 9-10****A. Initiation of TPR**

1. Only by petition or by motion in pending abuse, neglect, or dependency proceeding
2. DSS required to initiate TPR in certain circumstances

**B. Standing to File Petition or Motion**

1. Introduction
2. Either parent
3. Guardian
4. DSS or child-placing agency with custody order
5. DSS or child-placing agency to whom the child has been surrendered for adoption
6. Person child has lived with for eighteen months
7. Guardian ad litem for child
8. Adoption petitioner

**9.4 Counsel and Guardians ad Litem for Parent and Child 9-16****A. Counsel for Parent****B. Guardian ad Litem for Parent**

1. GAL for minor parent
2. GAL for parent who is incompetent
3. GAL appointment and role

**C. Guardian ad Litem for Child****9.5 Contents of Petition or Motion 9-21****A. Identifying Information**

1. Title
2. Child
3. Petitioner or movant
4. Parents
5. Guardian of the person or custodian

**B. Addressing the UCCJEA**

1. No circumvention of UCCJEA
2. Child status information required by UCCJEA

**C. Facts to Support Grounds for Termination****D. Verification****E. Request for Relief****9.6 Hearing for Unknown Parent 9-25****A. Preliminary Hearing to Determine Identity of Unknown Parent**

1. When required
2. Timing
3. Notice
4. Inquiry by court
5. Order
6. Amendment of petition to allege identity not required

**B. Service on Unknown Parent**

1. No summons required
2. Publication
3. Failure of unknown parent to answer

**9.7 Summons and Notice 9-27**

- A. Introduction
- B. Summons for Proceeding Initiated by Petition
  - 1. Those entitled to summons
  - 2. Child and GAL
  - 3. Contents of summons
  - 4. Service of summons
  - 5. Problems with summons
- C. Notice for Proceeding Initiated by Motion in the Cause
  - 1. Notice required
  - 2. Those entitled to notice
  - 3. Contents of notice
  - 4. Service of motion and notice
  - 5. Problems with notice

**9.8 Answer or Response 9-32****9.9 Pretrial and Adjudication Hearing Requirements 9-33**

- A. Pretrial Hearing
  - 1. Timing
  - 2. May be combined with adjudication hearing
  - 3. Notice
  - 4. Required considerations
- B. Adjudication Hearing
  - 1. Timing
  - 2. General procedures
  - 3. Counsel for parents
  - 4. Examination of child or parent
  - 5. Presence of parent

**9.10 Evidence and Proof 9-39**

- A. Evidentiary Requirements and Standards
- B. Events between Filing of Petition or Motion and Hearing
- C. Events after a TPR Is Denied or Reversed
- D. Specific Types of Evidentiary Issues

**9.11 Adjudication: Grounds for Termination of Parental Rights 9-44**

- A. Abuse or Neglect
  - 1. Definition of abuse or neglect
  - 2. Constitutional challenge
  - 3. Parental culpability
  - 4. Past neglect and likelihood of repetition of neglect
  - 5. Current neglect
  - 6. Factors related to abuse and neglect
  - 7. Neglect includes abandonment
- B. Willfully Leaving Child in Foster Care for More than Twelve Months without Reasonable Progress
  - 1. Constitutional challenge
  - 2. Time period in foster care or placement outside the home
  - 3. Willfulness



4.	Reasonable progress to correct conditions that led to child's removal	
5.	Poverty cannot be basis for TPR	
<b>C.</b>	<b>Failure to Pay a Reasonable Portion of the Child's Cost of Care</b>	
1.	Constitutional challenge	
2.	Ability to pay	
3.	Willfulness	
4.	Reasonable portion of cost of care	
5.	Notice of support obligation irrelevant	
6.	Child's placement	
<b>D.</b>	<b>Failure to Pay Child Support to Other Parent</b>	
1.	Agreement or order and failure to pay must be proven	
2.	Agreement or order establishes ability to pay	
3.	Willfulness: parent may rebut ability to pay	
<b>E.</b>	<b>Father's Actions regarding Child Born Out of Wedlock</b>	
1.	Findings as to child born out of wedlock; all prongs of ground required	
2.	Affidavit of paternity filed with DHHS	
3.	Substantial financial support or consistent care	
4.	Knowledge of child's existence	
5.	Judicial paternity determinations and name on birth certificate	
6.	Admissibility of paternity test	
7.	Constitutionality	
<b>F.</b>	<b>Dependency</b>	
1.	Constitutional challenge	
2.	Dependent juvenile	
3.	Lack of alternative child care required	
4.	Evidence of incapability to provide proper care or supervision of the child	
5.	Diligent efforts by DSS not a prerequisite	
6.	GAL for respondent not required	
<b>G.</b>	<b>Abandonment</b>	
1.	Six-month time period	
2.	Defining abandonment	
3.	Willfulness	
4.	Limitations of parent	
5.	Evidence of abandonment	
<b>H.</b>	<b>Murder, Voluntary Manslaughter, and Felony Assault of Child or Parent</b>	
1.	Manner of proof	
2.	Standard of proof	
3.	Serious bodily injury	
4.	Aiding and abetting murder or voluntary manslaughter	
<b>I.</b>	<b>TPR to Another Child and Lack of Safe Home</b>	
<b>J.</b>	<b>Relinquishment for Adoption</b>	
<b>K.</b>	<b>Conception Resulting from Sexually Related Criminal Offense</b>	
<b>9.12</b>	<b>Disposition and Best Interest Determination</b>	<b>9-92</b>
<b>A.</b>	<b>Overview</b>	
<b>B.</b>	<b>Evidentiary Standard</b>	
1.	Standard of review is abuse of discretion	
2.	No burden or standard of proof	

- 3. Separate hearings not required
- 4. Relevant, reliable, and necessary evidence
- 5. Evidence from adjudication
- 6. No absolute right to cross-examination
- C. **Considerations for Best Interest Determination**
  - 1. Required criteria
  - 2. Purpose of Juvenile Code
  - 3. Age of the juvenile and the juvenile's preference
  - 4. Likelihood that the child will be adopted
  - 5. Whether the TPR will aid in the accomplishment of the permanent plan for the child
  - 6. Bond between child and parent
  - 7. Other relevant considerations
  - 8. Weighing the factors

### **9.13 Highlighted Federal Laws: ICWA and the ADA 9-105**

- A. Compliance with ICWA
- B. ADA Not a Defense to TPR

### **9.14 Orders in Termination of Parental Rights Cases 9-107**

- A. Requirements for Order
  - 1. Address grounds
  - 2. Standard of proof for adjudication
  - 3. Findings and conclusions
  - 4. Timing
  - 5. Service of order on juvenile who is 12 or older
- B. Entry of Order
- C. Appeals

### **9.15 Effect of Order and Placement after Termination of Parental Rights 9-113**

- A. Severance of Rights and Obligations
- B. Collateral Legal Consequences
- C. Placement and Post-TPR Review Hearings
  - 1. When child is in DSS/agency custody
  - 2. When child is not in DSS/agency custody
  - 3. Post-TPR review hearings

## **Chapter 10: Post-TPR and Post-Relinquishment Reviews, Adoptions, and Reinstatement of Parental Rights 10-1**

### **10.1 Post-Termination of Parental Rights Review Hearings 10-2**

- A. Circumstances and Purpose
  - 1. Circumstances
  - 2. Purpose
- B. Timing of Hearing
- C. Notice and Participation
  - 1. Timing and procedure for notice
  - 2. Persons entitled to notice
  - 3. Right to participate and party status
- D. Appointment of GAL

- E. Evidence and Considerations for Hearings
  - 1. Evidence
  - 2. Sources of information
  - 3. Required considerations and findings
- F. The Order
  - 1. Contents
  - 2. Timing

## **10.2 Post-Relinquishment Review Hearings 10-7**

- A. Circumstances Requiring Review
- B. Relinquishment for Adoption
  - 1. Who may relinquish
  - 2. Types of relinquishment
  - 3. Right to counsel
  - 4. Revocation
  - 5. Rescission
  - 6. Voiding the relinquishment
  - 7. Consequences of relinquishment
  - 8. Compliance with ICWA
- C. Timing and Petition or Motion for Review
- D. Parent's Party Status
- E. Procedure for Hearing

## **10.3 Selected Adoption Provisions 10-13**

- A. Introduction
- B. Prospective Adoptive Parents
  - 1. DSS responsibility and discretion to select
  - 2. Notice of adoptive parent selection to GAL and foster parent
  - 3. Review hearing on selection
  - 4. Placement with prospective adoptive parent(s)
  - 5. Prospective adoptive parent is petitioner
- C. District Court Jurisdiction When Adoption Is Filed
  - 1. Adoption is a special proceeding
  - 2. Jurisdiction in a G.S. Chapter 7B action
- D. The Adoption
  - 1. The determination
  - 2. Notice of decree
  - 3. Effect of decree

## **10.4 Reinstatement of Parental Rights 10-20**

- A. Introduction
- B. Circumstances for Reinstatement
- C. Hearing Procedures
  - 1. Notification to child and appointment of GAL
  - 2. Service of motion
  - 3. Former parent not a party and not entitled to appointment of counsel
  - 4. Timing
  - 5. Pre-hearing reports
  - 6. Participants

- 7. Evidence and standard for review
- D. Criteria and Findings
- E. Interim Hearings and Reasonable Efforts
- F. Orders
- G. Effect of Reinstatement

## **Chapter 11: Evidence 11-1**

### **11.1 Applicability of Rules of Evidence 11-5**

- A. Adjudication
  - 1. Applicability of rules
  - 2. Reliance on criminal cases
  - 3. Evidence issues involving children
  - 4. Local rules affecting evidence
- B. Disposition and Other Proceedings

### **11.2 Child Witnesses 11-9**

- A. Competency of Child Witnesses
  - 1. General rule
  - 2. Procedure for determining competency
  - 3. Application of standard
  - 4. Unavailability distinguished from incompetency
  - 5. Quashing of subpoena for child
- B. Examination of Child Witnesses
  - 1. Remote testimony
  - 2. Excluding bystanders during child's testimony
  - 3. Excepting witnesses from sequestration order
  - 4. Oath for child witness
  - 5. Leading questions
  - 6. Written testimony
  - 7. Use of anatomical dolls to illustrate testimony
  - 8. Use of own terms for body parts
  - 9. Questioning by court
  - 10. Positioning on witness stand
  - 11. Recesses

### **11.3 Out-of-Court Statements to Refresh, Impeach, or Corroborate 11-17**

- A. Refreshing Recollection
- B. Impeachment
- C. Corroboration

### **11.4 Out-of-Court Statements and the Right to Confront Witnesses 11-20**

- A. Applicability of Confrontation Clause to Criminal and Delinquency Cases
  - 1. General rule
  - 2. Applicability to statements made to law-enforcement personnel, social workers, medical personnel, and others
- B. Inapplicability of Confrontation Clause to Juvenile Cases

**11.5 Out-of-Court Statements and the Hearsay Rule 11-22**

- A. Governing Rules
- B. Rationale for Hearsay Rule
- C. Components of Hearsay Definition
  - 1. Oral or written assertion of fact
  - 2. Made outside current proceeding
  - 3. Offered for truth of assertion

**11.6 Hearsay Exceptions 11-25**

- A. Types of Hearsay Exceptions and Their Rationales
- B. Rule 801(d): Admissions of a Party-Opponent
  - 1. Criteria
  - 2. Potential constitutional, statutory, and other bars
  - 3. Application of admission exception to common situations in juvenile cases
- C. Rule 803(2): Excited Utterances
  - 1. Criteria
  - 2. Statements by children
- D. Rule 803(3): State of Mind
  - 1. Criteria
  - 2. Examples
- E. Rule 803(4): Medical Diagnosis or Treatment
  - 1. Criteria
  - 2. First requirement: declarant's understanding and motivation
  - 3. Child declarants
  - 4. Examination protocols
  - 5. Identity of listener
  - 6. Statements to medical professional by parent of child obtaining treatment
  - 7. Second requirement: pertinence to diagnosis and treatment
  - 8. Mixed purpose examinations
  - 9. Identification of perpetrator
  - 10. Videotape of examination
  - 11. Anatomical dolls
  - 12. Basis of opinion
- F. Rule 803(6): Business Records
  - 1. Criteria
  - 2. Method and circumstances of preparation
  - 3. Observations, statements, and other information within a record
  - 4. Opinions within business records
  - 5. Objections to business records
- G. Rule 803(8): Official Records and Reports
- H. Rules 803(24) and 804(b)(5): Residual Hearsay
  - 1. Comparison of rules
  - 2. Unavailability
  - 3. Notice, trustworthiness, probative value, and other criteria
  - 4. North Carolina opinions on residual hearsay in juvenile cases

**11.7 Prior Orders and Proceedings and Judicial Notice 11-52**

- A. Generally
  - 1. Ambiguity in judicial notice principles in juvenile cases
  - 2. Suggested approach
- B. Definition of Judicial Notice
  - 1. Generally
  - 2. Judicial notice of prior proceedings
  - 3. Objections to judicial notice
- C. Orders and Other Court Records
  - 1. Summary
  - 2. Judicial notice of record entries
- D. Findings and Conclusions by Court
  - 1. Summary
  - 2. Collateral estoppel
  - 3. Prior adjudication findings and conclusions
  - 4. Prior findings and conclusions from non-adjudication proceedings
  - 5. Formal concessions; stipulations of fact
- E. Documentary Evidence, Court Reports, and Other Exhibits
  - 1. Summary
  - 2. Juvenile cases on documentary evidence
- F. Testimony
  - 1. Summary
  - 2. Hearsay nature of prior testimony

**11.8 Character and Prior Conduct 11-68**

- A. Generally
- B. Theories of Admissibility of Character Evidence
  - 1. Character directly in issue
  - 2. Character to show conduct
  - 3. Credibility
  - 4. Opening the door
- C. Is Character Directly at Issue in Juvenile Cases?
- D. Rule 404(b) and “Bad Act” Evidence
  - 1. Applicability of rule
  - 2. Basic requirements for admission of other acts under Rule 404(b)
  - 3. Form of proof; prior criminal proceedings
- E. Rape Shield Law

**11.9 Lay Opinion 11-74**

- A. Lay and Expert Testimony Distinguished
  - 1. Rule 602 and the requirement of personal knowledge
  - 2. Rule 701 and the allowance of inferences if rationally based on perception and helpful
- B. Examples of Permissible and Impermissible Lay Opinion
  - 1. Shorthand statements of fact, including statements about mental and emotional condition
  - 2. Lay opinion requiring special expertise
  - 3. Guilt of another person
  - 4. Truthfulness of another person’s statements

**11.10 Expert Testimony 11-78**

- A. Revised Evidence Rule 702(a)
- B. Three Basic Requirements
  - 1. Generally
  - 2. Scientific, technical, or other specialized knowledge that will assist trier of fact
  - 3. Qualified as an expert
  - 4. Three-pronged reliability test
- C. Other Requirements for Expert Opinion
  - 1. Rule 403 balancing
  - 2. Degree of certainty of opinion
  - 3. Permissible topics and purposes
- D. Expert Testimony about Children
  - 1. Credibility
  - 2. Legal conclusions
  - 3. Identity of perpetrator
  - 4. Physical injuries and their causes
  - 5. Battered child syndrome
  - 6. Opinion about abuse if no or inadequate evidence of physical injuries
  - 7. Psychological syndromes
  - 8. Characteristics of abused children
  - 9. Delayed disclosure
  - 10. Repressed memory
  - 11. Suggestibility of children
  - 12. Examination of child by respondent's expert
- E. Expert Testimony about Parents
  - 1. Generally
  - 2. Polygraph evidence

**11.11 Evidentiary Privileges 11-92**

- A. In Abuse, Neglect, and Dependency Proceedings
  - 1. Effect of broad negation of privileges in G.S. 7B-310
  - 2. Effect of specific negation of privileges in G.S. Chapter 8
  - 3. Attorney-client and clergy-communicant protections
  - 4. Protections against disclosure of confidential information
- B. In Termination of Parental Rights Proceedings

**11.12 Right against Self-Incrimination 11-95**

- A. Right Not to Answer Incriminating Questions
- B. No Right Not to Take Stand
- C. Drawing Adverse Inference from Refusal to Answer

**11.13 Evidence Procedures 11-97**

- A. Production of Witnesses and Documents
- B. Pretrial Motions in Limine, Objections, and Other Notices
- C. Pre-Adjudication Conference
- D. Objections at Trial
  - 1. Timely objection
  - 2. Grounds for objection
  - 3. Evidence for limited purpose

4. Motion to strike
5. Offers of proof
6. Importance of complete recordation

## **Chapter 12: Appeals 12-1**

### **12.1 Scope of Chapter 12-3**

### **12.2 Parties and Representation 12-4**

- A. Who Can Appeal
  1. Parties on appeal
  2. Joinder of parties
  3. Relationship of DHHS and county DSS as parties
  4. Nonparticipating party
- B. Appellate Representation in Juvenile Proceedings
  1. Appellate representation for DSS
  2. Appellate representation for parents
  3. Appellate representation for children
  4. Appellate representation for guardians or custodians
- C. Role of Trial Counsel
- D. Role of Appellant

### **12.3 Identifying Issues for Appeal 12-10**

- A. Preserving Issues for Appeal
  1. Objection, grounds, and ruling required
  2. Issues automatically preserved for appeal
  3. Intermediate orders under G.S. 1-278
- B. Scope of Appellate Review
  1. Issues identified in briefs
  2. The contents of the record
- C. Appellate Rule 2: Prevent Manifest Injustice
- D. Invited Error
- E. No Swapping Horses

### **12.4 Which Orders Can Be Appealed 12-18**

- A. Appealable Orders
  1. No jurisdiction
  2. Order determining the action
  3. Initial disposition and underlying adjudication order
  4. Order changing legal custody
  5. Order eliminating reunification as a permanent plan
  6. Order granting or denying a termination of parental rights
  7. Order deciding placement on the Responsible Individuals List
- B. When an Appeal Is Moot
  1. Exception based on collateral legal consequences of abuse, neglect, dependency adjudication
  2. Exception based on collateral legal consequences of termination of parental rights
  3. No collateral legal consequences from findings of fact in a permanency planning order
- C. Consolidation of Appeals



<b>12.5 Notice of Appeal</b>	<b>12-26</b>
A. Timing, Manner, and Content of Notice	
1. Electronic filing	
2. Timing and manner generally	
3. Timing and manner of appeal of order eliminating reunification as a permanent plan	
4. Signatures	
5. Contents	
B. Service and Proof of Service	
C. Appellate Entry Forms	
<b>12.6 Protection of the Child’s Identity – Appellate Rule 42</b>	<b>12-34</b>
<b>12.7 Expedited Appeals Process under Appellate Rule 3.1</b>	<b>12-35</b>
A. Transcript	
B. Record on Appeal	
1. Appellant’s proposed record	
2. Appellee’s response or lack thereof	
3. Settling the record when there is disagreement	
4. Problem with recording	
C. Briefs	
1. Time limits for briefs	
2. No-merit briefs	
<b>12.8 Issues on Appeal and Standards of Review</b>	<b>12-38</b>
A. Introduction	
B. Standards of Review	
C. Sufficiency of Evidence and Findings	
1. Generally	
2. Review of findings of fact and conclusions of law at adjudication	
3. Review of dispositional findings	
D. Abuse of Discretion	
E. Subject Matter Jurisdiction	
F. Failure to Follow Statutory Mandates and Procedures	
G. Statutory Interpretation	
<b>12.9 Motions to Dismiss and Failure to Comply with Appellate Rules</b>	<b>12-48</b>
<b>12.10 Extraordinary Writs, Discretionary Review, and Appeal of Right</b>	<b>12-49</b>
A. Writ of Certiorari	
1. Review of trial court order	
2. Review of court of appeals opinion	
B. Petition for Discretionary Review	
C. Appeal of Right	
D. Writ of Mandamus or Prohibition	
E. Writ of Supersedeas	
<b>12.11 Trial Court’s Role during and after Appeal</b>	<b>12-53</b>
A. Trial Court’s Role during Appeal	
1. Enforcement of or motion to stay order	
2. Continued court involvement in non-TPR appeals	
3. Cannot exercise jurisdiction in TPR action during appeal of the underlying matter	

- 4. Continued court involvement in appeal of TPR order
- 5. Order requirements pending appeal disposition
- 6. Rule 60 of the Rules of Civil Procedure
- B. Trial Court's Role after Appeal
  - 1. Modification of order
  - 2. Carrying out appellate mandate

## **Chapter 13: Relevant Federal Laws 13-1**

### **13.1 Scope of Chapter 13-3**

### **13.2 Indian Child Welfare Act 13-3**

- A. Introduction, Purpose, and Continued Need
- B. Applicability
  - 1. Proceedings covered by ICWA
  - 2. Proceedings not covered by ICWA
  - 3. "Indian child"
- C. Inquiry at Commencement of Every Proceeding as to "Indian Child" Status
  - 1. Reason to know child is an "Indian child"
  - 2. Burden of establishing "Indian child" status
- D. Jurisdiction
  - 1. Exclusive tribal court jurisdiction
  - 2. Concurrent jurisdiction in tribal and state court, intervention by tribe, transfer
- E. Emergency Proceedings
- F. Notice to the Tribe, Parent, Indian Custodian, and Bureau of Indian Affairs
  - 1. Right to intervene in a state court action
  - 2. Voluntary and adoption proceedings
- G. Timing of Court Proceedings
- H. "Active Efforts" Required
- I. Finding of Serious Emotional or Physical Damage
- J. Placement Preferences
- K. Consent to Foster Care Placement, TPR, and Adoption including Relinquishment
- L. Impact of ICWA Violation

### **13.3 Multiethnic Placement Act 13-33**

### **13.4 Title VI of the Civil Right Act 13-35**

- A. Introduction
- B. Applicability
- C. Prohibited Discrimination
- D. Requirements
  - 1. Compliance
  - 2. Outreach
  - 3. Language access
- E. Violations
  - 1. Complaint
  - 2. Findings of violations

**13.5 The Americans with Disabilities Act 13-42**

- A. Introduction
- B. Applicability
  - 1. Public entities
  - 2. Disability defined
- C. Prohibited Discrimination
- D. Requirements
  - 1. Access and opportunity
  - 2. Exceptions
  - 3. Application to abuse, neglect, dependency, and TPR proceedings
  - 4. Notice of applicability
- E. Compliance
  - 1. Filing a complaint
  - 2. Violations related to child welfare

**13.6 Servicemembers Civil Relief Act 13-53**

- A. Introduction
- B. Applicability
  - 1. Servicemember defined
  - 2. Military service defined
- C. SCRA Requirements
  - 1. The SCRA affidavit
  - 2. Additional SCRA requirements when respondent is in military service

**13.7 Every Student Succeeds Act 13-60**

- A. Introduction
- B. Companion to the Fostering Connections Act
- C. School Selection
- D. Transportation
- E. Designated Points of Contact

**13.8 The Individuals with Disabilities in Education Act 13-67**

- A. Introduction
- B. Part B of IDEA: Children Ages 3-21
  - 1. Qualifying disability
  - 2. Services for children 3 to 21 years of age
  - 3. Decision-making by the IEP Team
  - 4. Procedural safeguards
- C. Part C of IDEA: Children under 3 Years of Age
  - 1. Children substantiated as abused or neglected
  - 2. Qualifying disability
  - 3. Early intervention services (EI)
  - 4. Individualized family service plan (IFSP)
  - 5. The IFSP Team
  - 6. Procedural safeguards
- D. Parent: Definition, Role, and Appointment of Surrogate Parent
  - 1. Parent's role
  - 2. Parent defined
  - 3. Determining parent

4. Appointment of a surrogate parent

### **13.9 Special Immigrant Juvenile Status and Selected Immigration Resources 13-88**

- A. Introduction and Selected Resources
- B. Special Immigrant Juvenile Status and Obtaining Lawful Permanent Residency
  1. Introduction
  2. Eligibility for SIJS
  3. The application process
  4. Impact on parents

## **Chapter 14: Confidentiality and Information Sharing 14-1**

### **14.1 Juvenile Records 14-3**

- A. Department of Social Services Information
  1. Public agency and public records law
  2. Disclosure prohibited for public assistance and social services information
  3. Disclosure prohibited for abuse, neglect, dependency information
- B. Court Records and Proceedings
  1. The juvenile court record
  2. Juvenile court hearings: open or closed to the public
  3. Adoption proceedings and records
- C. DSS Access to Information
- D. The Child's GAL Access to and Disclosure of Information
- E. Designated Agency Information Sharing
- F. Subpoenas

### **14.2 Health Records and HIPAA 14-20**

- A. Covered Health Care Providers
- B. Protected Health Information
- C. Duty to Comply with HIPAA
- D. Impact on Abuse, Neglect, Dependency Laws
  1. Reporting child abuse, neglect, or dependency
  2. Assessment and protective services
  3. The child's GAL access to information
  4. Interagency information sharing
  5. Disclosure pursuant to a subpoena
  6. Disclosure pursuant to a court order
  7. Disclosure with patient authorization

### **14.3 Mental Health Records and G.S. Chapter 122C 14-24**

- A. Covered Providers
- B. Confidential Information
- C. The Duty of Confidentiality
- D. Impact on Abuse, Neglect, Dependency Laws
  1. Reporting child abuse, neglect, or dependency
  2. Assessment and protective services
  3. The child's GAL access to information
  4. Interagency information sharing
  5. Disclosure pursuant to a subpoena
  6. Disclosure pursuant to a court order

7. Disclosure with patient authorization

**14.4 Substance Use Disorder Records and 42 C.F.R. Part 2 14-28**

- A. Covered Programs
- B. Confidential Information
- C. Duty Imposed by Federal Substance Use Disorder Records Law
- D. Impact on Abuse, Neglect, Dependency Laws
  - 1. Reporting child abuse, neglect, or dependency
  - 2. Assessment and protective services
  - 3. The child's GAL access to information
  - 4. Interagency information sharing
  - 5. Disclosure pursuant to a subpoena
  - 6. Disclosure pursuant to a court order
  - 7. Disclosure with patient authorization

**14.5 Education Records and FERPA 14-33**

- A. Introduction
- B. Consent Required for Disclosure
  - 1. Consent required
  - 2. Personally identifiable information
  - 3. Education records
- C. Exceptions to Consent Requirement
  - 1. Overview
  - 2. Disclosure to child welfare agency responsible for child
  - 3. Disclosure to comply with judicial order or subpoena
  - 4. Disclosure for health or safety emergency
  - 5. Disclosure to school personnel and schools where child seeks to enroll
  - 6. Disclosure of directory information
- D. Documentation of Disclosure, Redisclosure, and Use of Information
- E. Complaints and Enforcement

**Appendix: Rules of Recordkeeping, Chapter XII**

**Checklists**

**Checklist 1: Nonsecure Custody Orders**

**Checklist 2: Pre-Adjudication**

**Checklist 3: Adjudication**

**Checklist 4: Dispositional Findings and Options at Initial, Review, and Permanency Planning**

**Checklist 5: Initial Disposition**

**Checklist 6: Review**

**Checklist 7: Permanency Planning**

**Checklist 8: Termination of Parental Rights Hearing**

**Checklist 9: Post-TPR Review Hearing**