

## Chapter 11

# Social Services Procedures

A report of abuse, neglect, or dependency results in certain actions by the county department of social services. In some cases local law enforcement agencies are involved as well. The juvenile (district) court may take action, but only when the department of social services files a petition after determining that a child needs to be removed from the home or that court intervention is needed for some other reason. Before any court action is initiated, the county social services department receives and screens reports, conducts assessments, and, in some cases, provides protective services.

### Screening

When a county department of social services receives a report, it must answer the following question: If the information in the report is true, does the child fit into the Juvenile Code definition of “abused juvenile,” “neglected juvenile,” or “dependent juvenile”?<sup>1</sup> A report concerning any situation or person not covered by one of these definitions will be screened out, and the department will not conduct an assessment. If someone reported that her neighbors were beating their eighteen-year-old daughter, for example, the report would be screened out because the definition of juvenile does not include someone who is eighteen or older.<sup>2</sup> If an emergency room nurse reported to social services that a fourteen-year-old boy had been stabbed by another student at school, the department would screen the report out

because the harm to the child was not caused or allowed by the child's parent, guardian, custodian, or caretaker.<sup>3</sup> Similarly, reports about children who are abused by religious officials, coaches, or teachers are screened out unless the responsible individual is the child's parent, guardian, custodian, or caretaker. A social services department that received such a report would not conduct an assessment. However, if the report indicated that the child had been "physically harmed in violation of any criminal statute" by someone other than the child's parent, guardian, custodian, or caretaker, the social services department would be required to relay the report to law enforcement authorities and to the district attorney.<sup>4</sup>

Often screening decisions are less clear-cut than the examples given above. When the decisions involve interpretations of the Juvenile Code definitions, counties may respond differently to very similar reports. Professionals or institutions, such as hospitals, that regularly make reports to more than one county must deal with different personnel and sometimes different procedures from county to county. In North Carolina each county department of social services operates its own child protective services program. Nevertheless, each county is governed by the same law and by the same detailed policies and procedures for each stage of a protective services case. The state Social Services Commission issues rules relating to child protective services.<sup>5</sup> The state Division of Social Services in the Department of Health and Human Services (DHHS) provides training for social workers and issues policy manuals and other guidance for county departments.<sup>6</sup>

A lengthy section of the Division of Social Services' child protective services manual establishes a structured intake process that emphasizes the extreme importance of intake, the need for consistency in intake decisions, and the importance of focusing early on families' strengths as well as on the problem that is reported.<sup>7</sup> While these policies provide fairly specific guidance, they do not answer all of the hard questions. Rather, they include interview and screening tools and suggestions about how to approach the difficult questions in ways that are consistent with the goal of child protection. Any social services department's decision to screen out a report of suspected abuse, neglect, or dependency must involve, at a minimum, both the social worker and his or her supervisor.<sup>8</sup> If a report is screened out, the department may try to refer the reporter to another appropriate agency or resource.

As discussed in Chapter 5, cases in which the definitions may be interpreted and applied differently often involve reports that come from schools, hospitals, and other professional settings. Situations that are susceptible to different interpretations underscore both the necessity of interagency coordination at the local level and the value of guidelines developed jointly by social services departments and the agencies and institutions that make reports frequently. Communities, not just social services departments, need to develop appropriate responses to drug-exposed infants, children with basic hygiene and clothing needs, children with school-attendance problems, and teenagers living apart from their families. Responses that make the best use of resources and provide the best protection for children may differ from county to county.

## **Notification after a Report Is Made**

### **Notifying the Reporter**

Within five working days after receiving a report, the department of social services must give the person who made the report written notice of

1. whether the report has been accepted for assessment, and
2. whether the report has been referred to the appropriate state or local law enforcement agency.<sup>9</sup>

This notice is required after every report of suspected abuse, neglect, or dependency unless the person who made the report either asks specifically that the department not provide the notice or fails to provide contact information that is sufficient for the department to provide the notice.

In addition, in any case in which the department does not accept a report for assessment, the notice must inform the reporter of

1. the fact that the department will not conduct an assessment,
2. the basis for that decision, and
3. the reporter's right to ask for a review of the decision and the procedures for making that request.<sup>10</sup>

(The review process is discussed in Chapter 12.)

A person whose report is accepted for assessment is entitled to a second notification when the assessment is completed. See “Notification Requirements at Conclusion of Assessment,” below.

### **Notifying Law Enforcement**

In some cases, after screening out a report, the social services director must make an immediate oral report, followed by a written report within forty-eight hours, to both the district attorney and an appropriate local law enforcement agency. These reports are required any time the information in the report indicates that a child may have been physically harmed in violation of any criminal law by someone other than the child’s parent, guardian, custodian, or caretaker.<sup>11</sup> The social services department, for example, would not conduct an assessment based on a report that a substitute teacher had molested a child. The department would be required, however, to notify the district attorney and law enforcement authorities immediately after receiving the report.

The law enforcement agency then would be required to begin a criminal investigation immediately (and in no event more than forty-eight hours after being notified). After the investigation, the district attorney would decide whether any criminal charges should be filed.<sup>12</sup> See “Law Enforcement’s Role,” below, for discussion of other kinds of notification to law enforcement officials.

### **Notification When Report Involves Child Care**

If a report relates to possible abuse or neglect of a child in a child care facility, the social services director must notify the state Department of Health and Human Services within twenty-four hours after receiving the report.<sup>13</sup> If the report involves possible sexual abuse of a child in a child care setting, the director also must notify the State Bureau of Investigation within this same time frame.<sup>14</sup>

A county social services director who receives a report of sexual abuse of a child in a child care facility and knowingly fails to notify the State Bureau of Investigation is guilty of a Class 1 misdemeanor.<sup>15</sup>

## Social Services Assessment

### Purpose of Assessment

The purposes of the social services department's assessment after a report of abuse, neglect, or dependency are to determine

- whether the child's needs for care and protection are being met and whether there is an immediate risk to the child's safety;
- the extent of any abuse or neglect;
- the risk of harm to the child;
- whether removal from the home is necessary for the child's protection;
- whether the child and family need protective services and, if they do, what services would be most helpful; and
- whether a petition should be filed to take the matter to juvenile court.<sup>16</sup>

The Multiple Response System adopted by the state divides assessment responses into two categories— a “family assessment response” and a traditional “investigative assessment response”<sup>17</sup> An investigative assessment occurs in response to a report of abuse or serious neglect. These cases present serious safety issues, possible criminal charges, or both. A family assessment response follows a report of neglect (other than serious neglect) or dependency. It focuses on identifying a family's strengths and needs and on engaging the family in efforts to become able to provide better care for the children. In these cases there may never be a substantiation that labels a child as having been abused or neglected. The emphasis instead is on whether the family needs services. Social services departments try to involve families and their relatives and communities directly in evaluating a family's needs and available resources and in planning for a child's safety and welfare.

### Starting the Assessment

A social services department must refer a report to another county social services department for assessment if the report involves abuse, neglect, or dependency allegedly caused by an employee of the department, a foster parent supervised by the department, a member of the county social services board, or a caretaker in a sole-source contract group home or a child care facility operated by the department.<sup>18</sup> In addition, a social services director may ask another county to conduct an assessment any time that, in the director's professional judgment, the department would be perceived as having a conflict of interest in conducting the assessment.<sup>19</sup>

The county social services director, acting primarily through the local social services staff, is required to make a prompt and thorough assessment of every abuse, neglect, and dependency report that the department does not screen out or refer to another county. If the report alleges abuse, the assessment must start immediately (and in no event more than twenty-four hours after the department receives the report).<sup>20</sup> An assessment of a report of neglect or dependency must begin within seventy-two hours unless the report alleges abandonment, in which case the assessment must begin immediately.<sup>21</sup> Every assessment must include a visit to the place where the child lives unless the report involves abuse or neglect of a child in a child care facility.<sup>22</sup> However, when conducting an assessment, a social worker may enter a private residence only if

1. the social worker has a reasonable belief that a child in the home is in imminent danger of death or serious physical injury; or
2. the parent or other person responsible for the child's care consents to the entry;
3. the social worker is accompanied by a law enforcement officer who has legal authority to enter the residence; or
4. a court order authorizes entry.<sup>23</sup>

At the request of a county social services director, state or local law enforcement officers must assist with an assessment and with an evaluation of the seriousness of a report of abuse, neglect, or dependency.<sup>24</sup> However, the mere presence of a law enforcement officer is not sufficient to ensure entry into a private residence for purposes of an assessment. Without consent to enter, a law enforcement officer may enter only with a warrant or court order unless the officer reasonably believes that entering the residence is “urgently necessary to save life, prevent serious bodily harm, or avert or control public catastrophe.”<sup>25</sup>

### Steps in an Assessment

The first step in an assessment is to make face-to-face contact with the child, when that is possible.<sup>26</sup> An assessment also includes

- checking county and state records to determine whether other reports have been made concerning the same child or other children in the family;
- interviewing family members and others who might have relevant information;

- seeing any other children who live in the home; and
- when possible, interviewing any person who is reported to have abused or neglected the child.<sup>27</sup>

County social services departments use structured decision-making tools to determine how to characterize the outcome of an assessment and what (if any) actions are appropriate.<sup>28</sup> These tools include assessments that the department conducts with the family to evaluate safety and risks, identify the family’s strengths and needs, and formulate an initial case plan.

The law requires the department of social services to make a prompt and thorough assessment, but it does not specify any length of time within which the department must complete the assessment. State social services policy states that a family assessment should be completed within forty-five days and an investigative assessment within thirty days, or the record should document a rationale for the assessment’s extending beyond that time.<sup>29</sup>

At the conclusion of an investigatory assessment, which occurs when a report involves abuse or serious neglect, the department classifies the report as either *substantiated* or *unsubstantiated*. These terms are not defined in state law, policy, or regulations. Presumably a report is substantiated if the social services assessment reveals facts or evidence sufficient to establish that a child is “abused,” “neglected,” or “dependent” as the Juvenile Code defines those terms.<sup>30</sup> It is not clear, however, what standard the department should apply in determining whether the evidence and facts are sufficient.<sup>31</sup>

The department of social services conducts a family assessment when the report involves neglect or dependency but not abuse or serious neglect. The determination at the end of the assessment is one of the following:

- services needed;
- services provided, protective services no longer needed;
- services recommended; or
- services not recommended<sup>32</sup>

### **Confidential Information**

In conducting an assessment, the director of the county department of social services (or the director’s representative) may ask the person who made the report for additional information or records. The law authorizes the director to obtain, from the reporter or anyone else, information that the director considers relevant to a case, even if the information otherwise would be confidential.<sup>33</sup> Anyone who receives a social services director’s written demand

for records or information must provide the director with the information and with access to and copies of any records. Three kinds of information are excluded from this rule:

1. information that is protected by the attorney–client privilege,
2. any information that federal laws or regulations prohibit the person from disclosing,<sup>34</sup> and
3. criminal investigative records.<sup>35</sup>

The third exception applies, however, only if disclosure would jeopardize the assessment or trial of a criminal matter and the custodian of the records applies to the court and receives an order preventing disclosure.<sup>36</sup>

### **Assessment Following a Child’s Death**

When the department of social services receives a report that a child has died as a result of suspected maltreatment, it is required to

1. determine immediately whether other children are in the home and, if so,
2. conduct an immediate assessment to determine whether those children need services or need to be removed from the home for their protection.<sup>37</sup>

The department takes action as if a report of possible abuse, neglect, or dependency has been made regarding any other children in the same home. A criminal investigation, of course, is the responsibility of law enforcement.

### **Assessment in an Institutional Setting**

When a social services department receives a report that a child in an institutional setting, such as a residential school or treatment facility, is an abused, neglected, or dependent juvenile or has died as the result of maltreatment, the department must conduct an assessment as in other cases. The department must immediately determine whether other children in the facility are subject to the care and supervision of someone allegedly responsible for the abuse, neglect, or death of the child who was the subject of the report. If so, the assessment must determine whether those children need protective services or should be removed from the facility for their protection.<sup>38</sup>

## Law Enforcement's Role

In any case, the department of social services may consult with and seek assistance from a law enforcement agency. If asked to do so by the social services director, the law enforcement agency must assist in the assessment and in an evaluation of the seriousness of any report of abuse, neglect, or dependency.<sup>39</sup>

Whenever an assessment by a social services department reveals that a child may have been abused, the director of social services must make an oral report immediately and a written report within forty-eight hours to both the district attorney and the appropriate local law enforcement agency.<sup>40</sup> The law enforcement agency must begin a criminal investigation immediately (and in no event more than forty-eight hours after being notified) and must coordinate its investigation with the protective services assessment being done by social services.<sup>41</sup> When the criminal investigation is complete, the district attorney decides whether any criminal charges should be filed.

## Social Services Action

### Immediate Removal of Child

If the department's assessment results in a determination that a child is abused, neglected, or dependent, the director must assess whether the child will be safe if left in the home. Sometimes the parent will agree to a protection plan specifying actions the parent will take to ensure the child's safety. Sometimes a safety plan will include the parent's voluntary placement of the child with a relative or other person. If a parent does not consent, however, the department ordinarily must file a petition and obtain a court order before removing a child from the custody of a parent.

If it appears that the time it would take to file a petition and obtain a court order might result either in injury to the child or in the department's inability to take the child into custody later, then a law enforcement officer or social services worker may take the child into temporary physical custody immediately, without a court order. Within twelve hours after taking a child into custody (twenty-four hours if any of the first twelve-hour period falls on a weekend or holiday), the social services department must either (1) file a petition and obtain a court order or (2) return the child to the parent.

Juvenile court procedures that follow the filing of a petition are discussed in Chapter 13.

## Protective Services

After determining that a child is an abused, neglected, or dependent juvenile, the social services department must evaluate the need for protective services and develop a plan for protecting the child and working with the family.<sup>42</sup>

*Protective services* help parents (or guardians, custodians, or caretakers)

- prevent abuse or neglect,
- improve the quality of child care,
- be better parents or care providers, and
- preserve and stabilize family life.<sup>43</sup>

Subject to the exceptions described above, the director can continue to demand confidential information that would assist at this stage of providing protective services, just as during an assessment.<sup>44</sup>

If the department has not filed a petition to start a juvenile court action in order to obtain a nonsecure custody order, the department must file one at any point at which it believes that the child should be removed from the home or that the court needs to become involved for any other reason.

## Keeping the Family Together

State law and policy reflect the belief that children who can remain safely in their own homes or return safely to their own homes after removal almost always are better off than they would be in foster care or other substitute care arrangements. Law and policy also reflect parents' rights to the care, custody, and control of their children—rights the parents may relinquish through conduct that is inconsistent with their protected parental status. Even when abuse or neglect has occurred, the law requires county departments of social services to make reasonable efforts to keep the family together. Originally the phrase “reasonable efforts” referred to a county department of social services' diligent use of services (1) to prevent the need to remove a child from the home or, (2) if a child had been removed from the home, to return the child home.<sup>45</sup>

The current definition reflects an additional belief—that children need stable, permanent homes and are harmed by delays in achieving that goal. Now, if a court determines that the child's remaining at home or returning home is not consistent with achieving a safe permanent home for the child in a reasonable period of time, “reasonable efforts” also refers to a social services department's diligent use of permanency planning services to develop and

implement another permanent plan for a child.<sup>46</sup> The requirement that social services departments make these efforts is both a funding condition for the state's receipt of federal child welfare funds and a mandate of state law.<sup>47</sup>

Any juvenile court order that places or continues the placement of a child in the custody of a department of social services must include findings about whether the department has made reasonable efforts. Depending on prior actions in the case, the findings must relate to efforts to prevent the need for placement, to reunify the child and parents, or to achieve another permanent plan.<sup>48</sup> If the child is in social services' custody, the court must make these findings at

- hearings on the need for continued prehearing (nonsecure) custody,
- disposition hearings, and
- review and permanency planning hearings (see Chapter 13).<sup>49</sup>

In these orders, the court also may provide for services or other efforts aimed at returning the child to a safe home or achieving another permanent plan for the child.

When a child needs placement because of an immediate threat of harm, the court can determine later that it was reasonable for the social services department to place the child without making any efforts to prevent the need for placement.<sup>50</sup> If the court finds that a department of social services has not made reasonable efforts to prevent or eliminate the need for a child's placement, the court still may enter whatever order is appropriate. For example, even if social services has provided no services to help a parent find decent housing, when unsafe living conditions are the reason for the child's removal, the court may continue the child's placement outside the home. However, the negative finding may prevent social services from claiming federal funds to pay part of the cost of the child's foster care placement.<sup>51</sup>

Making reasonable efforts to prevent or eliminate the need for a child's placement does not mean making every possible effort, and it does not mean making efforts for an indefinite period of time. Parents are responsible for providing a safe home for their children and for correcting the conditions that led to a child's removal from the parents' custody. The court may relieve a social services department of the duty to make efforts to reunify the family if the court finds any of the following:

1. The efforts clearly would be futile.
2. The efforts would be inconsistent with the child's health, safety, and need for a safe, permanent home within a reasonable period of time.

3. The parent's rights to another child have been terminated involuntarily by a court.
4. A court has determined that the parent has
  - committed murder or voluntary manslaughter of another child of the parent;
  - aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent;
  - committed a felony assault resulting in serious bodily injury to the child or another child of the parent;
  - committed sexual abuse against the child or another child of the parent; or
  - been required to register as a sex offender on any government-administered registry.<sup>52</sup>

After the court has ordered that reunification efforts cease, the emphasis in the case shifts. The social services department still must make reasonable efforts, but those efforts are directed toward developing and implementing another permanent plan for the child. That plan might be adoption or the designation of a relative or other appropriate person as the child's guardian or legal custodian.

A parent who fails to make the changes necessary to provide a safe home for the child within a reasonable period of time risks permanent separation from the child. The court may terminate a parent's rights completely—freeing the child for adoption—if the court finds that the parent has willfully left the child in foster care or other out-of-home placement for more than a year without making reasonable progress in correcting the conditions that led to the child's removal from the home.<sup>53</sup>

## **Notification Requirements at Conclusion of Assessment**

### **To the Reporter**

Within five working days after completing an assessment, the department of social services must give the person who made the report a second written notice, unless the reporter asked not to be notified or did not identify himself or herself. (The first notice will have informed the reporter that the

report was accepted for assessment. See “Notifying the Reporter,” above.) This notice must state

1. whether the department has made a finding of abuse, neglect, or dependency;
2. whether the department is taking action to protect the child and, if so, what that action is;
3. whether the department has filed a petition to begin a juvenile court proceeding;
4. that if the reporter is not satisfied with the director’s decision, then within five working days after receiving the notice, the reporter may ask the prosecutor (the assistant district attorney who handles juvenile cases) to review the decision; and
5. the procedure for requesting a formal review by the prosecutor (see Chapter 12).<sup>54</sup>

Because of confidentiality requirements, the department ordinarily cannot share much more information than this with the reporter.

### **To the Parent, Guardian, Custodian, or Caretaker**

If an assessment does not result in a finding of abuse, neglect, or dependency, the social services director must notify those listed below of that result and inform them that social services will no longer be involved with the family on a non-voluntary basis:

- any person who was alleged to have abused or neglected the child;
- any parent or other person with whom the child resided when social services began the assessment; and
- any agency that has legal custody of the child.<sup>55</sup>

If the assessment does result in a finding of abuse, neglect, or dependency, the social worker in the case must “make every effort to provide personal written notice” to the same people or agencies.<sup>56</sup>

### **To the Central Registry**

Each county department of social services must furnish the state Department of Health and Human Services with data about abuse and neglect reports and assessments (as well as dependency and child death reports and assessments). At the state level, this comprehensive collection of information

from across the state is called the Central Registry.<sup>57</sup> Created in 1971, the registry provides data for studying the nature and extent of child abuse, neglect, dependency, and fatalities caused by maltreatment in North Carolina. It also helps identify children and families who are involved in repeated reports or instances of these occurrences.

Registry data are confidential. State rules specify the circumstances in which the data can be used for research and study and when the Chief Medical Examiner's office and law enforcement officials may use the data to determine whether abuse or neglect should be evaluated as a possible factor in a child's death.<sup>58</sup> The Juvenile Code does not provide any procedure for a parent, guardian, custodian, or caretaker to contest a social services department's determination at the end of an assessment or to request the removal of information from the Central Registry. For that reason, information in the registry is not available to prospective employers or to anyone else who is conducting a background check of an individual.

### **To a Responsible Individual and the Responsible Individuals List**

In some cases, after completing an investigative assessment, the social services department is required to give personal written notice (or, if that is not possible, notice by registered or certified mail) to someone the department has identified as being responsible for the abuse or serious neglect of a child.<sup>59</sup> The department also must furnish that information to the state Department of Health and Human Services.

The focus of the reporting law, child protective services, and juvenile court proceedings is on children who are abused, neglected, or dependent and their need for protection, services, or placement.<sup>60</sup> However, if a social services department determines that a child has been abused or seriously neglected, the department is also required, when possible, to identify the individual or individuals responsible for the child's being abused or neglected.<sup>61</sup> These people's names may end up on a state-maintained list from which information can be disclosed to

- child caring institutions,
- child placing agencies,
- group home facilities, and
- other providers of foster care, child care, or adoption services who need to determine an individual's fitness to care for or adopt children.<sup>62</sup>

Because information from the Responsible Individuals List can be disclosed and could substantially impact an individual's reputation and opportunities to adopt or care for children, a person has a right to contest the placement of his or her name on the list. The first statutory procedures provided for this kind of challenge were declared unconstitutional because they allowed immediate placement of names on the list and required people to seek expunction of their names from the list.<sup>63</sup> The current procedures permit placement of a name on the list only after the identified person has had an opportunity to challenge social services' determination that it should go there or the person has been criminally convicted as a result of the same incident that led to the assessment.<sup>64</sup> These procedures were created by legislation that became effective July 3, 2010, and the only names on the list now are those placed there pursuant to these procedures.<sup>65</sup>

The term "serious neglect" is relevant only in relation to

1. a social services department's determination of whether the appropriate response to a report is a family assessment or an investigative assessment, and
2. a social services department's or court's determination of whether someone is a "responsible individual."<sup>66</sup>

Children are not adjudicated by the court to be seriously neglected. The definition of "serious neglect" suggests that a social services department must exercise substantial discretion in making the initial determination that someone is a responsible individual based on having seriously neglected a child. Serious neglect is "[c]onduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse."<sup>67</sup>

### **To the State Department of Health and Human Services and the State Bureau of Investigation When a Child Care Facility Is Involved**

If an assessment reveals evidence that a child has been abused or neglected in a child care facility, the social services director must immediately notify the state Department of Health and Human Services (DHHS) and, if the evidence relates to sexual abuse in a child care facility, the State Bureau of Investigation (SBI).<sup>68</sup> Child care facilities include child care centers and

family child care homes, which are regulated by the state.<sup>69</sup> At the conclusion of the assessment, the social services director must follow up with written notice of the results of the assessment to DHHS and, if the assessment related to sexual abuse in a child care facility, to the SBI.<sup>70</sup>

## **Confidentiality and Information Sharing**

### **Confidentiality Rule**

A county social services department is required to hold “in strictest confidence” the information it receives in relation to a child protective services matter, including the identity of the reporter.<sup>71</sup> The department also must protect information in its records about children who are in the department’s custody<sup>72</sup> and information that would reveal the identity of any juvenile who is the subject of a report or assessment.<sup>73</sup> Except when disclosure is for purposes directly related to the administration of a social services program or is explicitly authorized by a statute or regulation, it is a misdemeanor for anyone to disclose (or, for that matter, to obtain) information concerning persons who are receiving social services when the information is derived from the department’s records, files, or communications.<sup>74</sup>

### **When Disclosure Is Allowed**

Information in the agency’s child protective services records can be disclosed any time a court orders the social services director to disclose it. Without a court order, information from social services’ records in a child protective services case may be disclosed

- to a federal, state, or local government agency that needs the information in order to protect a child from abuse or neglect or to carry out its mandated responsibilities;
- to the child, even if the child is eighteen or older, or the child’s attorney or guardian ad litem;
- to individuals or agencies that are helping provide or facilitate the provision of services to the child;
- to a district attorney who needs access to the information to carry out his or her responsibilities relating to a report of abuse or a director’s decision not to file a petition; and

- to the other parties in a juvenile court proceeding involving the child, when the information is relevant to that proceeding and does not include the identity of the person who made a report to social services.<sup>75</sup>

In addition, throughout the life of the case—from the assessment stage through any court action that may occur—certain agencies must share with each other information that is relevant to the case, but they may use the information only

- for the child’s protection,
- for the protection of others, or
- to improve the child’s educational opportunities.<sup>76</sup>

Agencies covered by this requirement are designated in a rule issued by the Division of Juvenile Justice in the Department of Public Safety and include the following:

1. the Division of Juvenile Justice of the Department of Public Safety;
2. the Office of Guardian Ad Litem Services of the Administrative Office of the Courts;
3. county departments of social services;
4. area mental health, developmental disability, and substance abuse authorities;
5. local law enforcement agencies;
6. district attorneys’ offices, although they are never required to disclose information pursuant to the rule;
7. county mental health facilities and developmental disabilities and substance abuse programs;
8. local school administrative units;
9. local health departments; and
10. any local agency designated by an administrative order issued by the chief district court judge of the district in which the agency is located.<sup>77</sup>

Any confidential information shared by these designated agencies must remain confidential and be withheld from public inspection.<sup>78</sup> If one agency refuses another agency’s request for information for any reason, the agency refusing to disclose information must inform the other agency of the specific law or regulation that is the basis for the refusal.<sup>79</sup>

Defining appropriate boundaries for the sharing of information about children and families involved in the juvenile court and social services systems is not easy. Even with the legal and regulatory guidance described here, the exact boundaries are sometimes unclear.<sup>80</sup> The applicable law and rules are likely to be the subject of continued scrutiny and of efforts to reconcile competing interests such as

- the need to share sensitive information in order for agencies and professionals to serve families effectively and to coordinate their involvement with families,
- the desire to respect families' and children's privacy,
- an interest in not having fear of publicity and loss of privacy discourage people from involvement in the system,
- the public's interest in knowing how well the child protective services system works and in feeling that it is accountable, and
- the need to comply with federal and state confidentiality laws and regulations that often are difficult to interpret or reconcile.

Local guidelines or protocols among agencies can help clarify when, how, and with whom certain kinds of information can be shared and for what purposes the information may be used. They also can help ensure that the person or agency receiving confidential information continues to protect its confidentiality.

## Notes

1. See North Carolina General Statutes (hereinafter G.S.) § 7B-101(1), (9), and (15). The North Carolina General Statutes can be viewed online at [www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl](http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl).

2. Even if the eighteen-year-old was disabled and dependent on her parents for care, the report would be screened out as a child abuse or neglect report. It would be treated as a report under the Protection of the Abused, Neglected or Exploited Disabled Adult Act (G.S. Chapter 108A, Article 6), which also includes a mandatory reporting requirement. The person making the report would be referred to the department's adult protective services unit.

3. The department would relay the information to law enforcement authorities as required by G.S. 7B-307(a). In addition, physicians and hospitals have a duty to report to law enforcement cases involving "serious physical injury to any child under the age of 18 years where the . . . injury appears, in the physician's professional judgment, to be the result of nonaccidental trauma." G.S. 90-21.20(c1).

4. G.S. 7B-307(a).
5. Administrative rules relating to child protective services appear in subchapter 70A of title 10A of the North Carolina Administrative Code (hereinafter N.C.A.C.).
6. Policies relating to child protective services appear in N.C. Department of Health & Human Services, Division of Social Services, Chapter VIII, of the Division's online *Family Support and Child Welfare Manual* (hereinafter *State Manual*), <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man>.
7. See "Structured Intake," in Section 1407, Chapter VIII, *State Manual*, cited in full in note 6.
8. N.C.A.C. tit. 10A, subch. 70A, § .0105(g) (Apr. 2003).
9. G.S. 7B-302(f).
10. N.C.A.C. tit. 10A, subch. 70A, § .0105(h) (Apr. 2003).
11. See G.S. 7B-307(a).
12. See *id.*
13. See *id.*
14. G.S. 7B-301.
15. G.S. 7B-301(c), as amended by S.L. 2013-52, sec. 7, effective December 1, 2013.
16. G.S. 7B-302; N.C.A.C. tit. 10A, subch. 70A, § .0106 (Apr. 2003).
17. G.S. 7B-101(11a) and (11b). The Multiple Response System involves much more than the two kinds of assessment responses mentioned in the text. It represents an "on-going effort to reform the entire continuum of child welfare services" and comprises seven key strategies as part of that effort. See "Multiple Response System," in Section 1400.III, Chapter VIII, *State Manual*, cited in full in note 6, <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1400-02.htm#TopOfPage>. Additional information about the Multiple Response System is available on the web page of the state Division of Social Services, [www.ncdhhs.gov/dss/mrs/#what](http://www.ncdhhs.gov/dss/mrs/#what).
18. N.C.A.C. tit. 10A, subch. 70A, § .0103(a) (Sept. 1994).
19. N.C.A.C. tit. 10A, subch. 70A, § .0103(b) (Sept. 1994). Policies and procedures applicable to cases involving more than one county are discussed in Chapter V (Jurisdiction in Child Welfare), *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-45/man/Chapter\\_V-02.htm#P409\\_36256](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-45/man/Chapter_V-02.htm#P409_36256).
20. G.S. 7B-302(a).
21. G.S. 7B-302(a); N.C.A.C. tit. 10A, subch. 70A, § .0105(d) (Apr. 2003).
22. G.S. 7B-302(a).
23. G.S. 7B-302(h).
24. G.S. 7B-302(e).
25. G.S. 15A-285. The statutory authority for this type of entry may not be used as the basis for law enforcement action taken to enforce the law or seize a person or evidence. *Id.*
26. N.C.A.C. tit. 10A, subch. 70A, § .0105(d) (Apr. 2003). See also Section 1408.III.E.3, Chapter VIII, *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-01.htm#P164\\_16882](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-01.htm#P164_16882).
27. N.C.A.C. tit. 10A, subch. 70A, § .0106 (Apr. 2003).
28. See Section 1408.II.J, Chapter VIII, *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-01.htm#P681\\_74129](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-01.htm#P681_74129).

29. See Section 1408.III.E, Chapter VIII, *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-02.htm#P921\\_98338](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-02.htm#P921_98338), and Section 1408.IV.F, Chapter VIII, *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-03.htm#P1047\\_118651](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-03.htm#P1047_118651).

30. See G.S. 7B-101(1), (9), and (15).

31. If a social services department takes a case to court, it has the burden of proving by “clear and convincing evidence” that the child is abused, neglected, or dependent. G.S. 7B-805. Arguably, a department should not substantiate a report unless it believes it could satisfy that burden if the case goes to court.

32. See Section 1408.III.E, Chapter VIII, *State Manual*, cited in full in note 6, [http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-02.htm#P921\\_98338](http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1408-02.htm#P921_98338).

33. G.S. 7B-302(e).

34. Federal laws and regulations that prohibit disclosure of information include the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99), which protects the privacy of student education records, and the Public Health Service Act (42 U.S.C. § 290dd-2; 42 C.F.R. Part 2), which restricts the disclosure of drug and alcohol abuse patient records. These restrictions do not apply to reporting suspected child abuse under state reporting laws, but they appear to apply at any stage after reporting, i.e., during an assessment or the provision of protective services. For additional information about these and other confidential records, see Kella W. Hatcher, Janet Mason, and John Rubin, *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina* (Chapel Hill, N.C.: UNC School of Government, 2011) (hereinafter *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings*), Sections 13.4 and 13.5, available for purchase or for free download, in PDF form, at <http://shopping.netsuite.com/s.nl/c.433425/it.A/id.4228/f>.

35. G.S. 7B-302(e).

36. *Id.*

37. G.S. 7B-302(b).

38. *Id.*

39. G.S. 7B-302(e).

40. G.S. 7B-307(a).

41. *Id.*

42. N.C.A.C. tit. 10A, subch. 70A, §§ .0107(c), (d) (May 2006).

43. G.S. 7B-300.

44. G.S. 7B-302(e). See also G.S. 7B-3100(a), which requires that certain designated agencies share information that is “relevant to . . . the provision or arrangement of protective services in a child abuse, neglect, or dependency case.” Note that the administrative rules issued pursuant to that statute, at N.C.A.C. tit. 28, subch. 01A, §§ .0301 and .0302 (Apr. 2003), have not been amended to reflect the expansion of the statutory provision to include social services’ provision of protective services as well as its assessment of a report of abuse, neglect, or dependency.

45. These requirements were first articulated in the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, which amended the Social Security Act, 42 U.S.C. §§ 601 *et seq.*

46. The definition of “reasonable efforts” is found in G.S. 7B-101(18).
47. See 42 U.S.C. § 671 and G.S. 7B-507.
48. G.S. 7B-507(a).
49. G.S. 7B-507(c). These requirements also apply in cases of delinquent or undisciplined juveniles who are placed by the court in the custody of a county department of social services. See G.S. 7B-2503(1)c and 7B-2506(1)c.
50. G.S. 7B-507(a).
51. See Section 13.1B in Hatcher, Mason, and Rubin, *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings*, cited in full in note 34.
52. G.S. 7B-507(b).
53. G.S. 7B-1111(a)(2). This is just one of the statutory grounds for terminating a parent’s rights. Termination of parental rights is discussed in detail in Chapter 9 of Hatcher, Mason, and Rubin, *Abuse, Neglect, Dependency, and Termination of Parental Rights*, cited in full in note 34.
54. G.S. 7B-302(g).
55. N.C.A.C. tit. 10A, subch. 70A, § .0108 (July 1993). The rule does not specify the form or timing of this notification.
56. N.C.A.C. tit. 10A, subch. 70A, § .0107 (May 2006).
57. G.S. 7B-311; G.S. 7B-307(c).
58. N.C.A.C. tit. 10A, subch. 70A, § .0102 (May 2006).
59. G.S. 7B-320(a), (b). The statute describes the required content of the written notification. G.S. 7B-320(c).
60. See, e.g., *In re S.C.R.*, \_\_\_ N.C. App. \_\_\_, 718 S.E.2d 709, 713 (2011) (holding that the trial court should not have dismissed the petition as to the father because an adjudication of abuse, neglect, or dependency pertains to the status of the child and not to the identity of any perpetrator of abuse or neglect of the child).
61. G.S. 7B-302 and -307.
62. G.S. 7B-311(b) and -320(c)(3).
63. See *In re W.B.M.*, 202 N.C. App. 606, 690 S.E.2d 41 (2010).
64. G.S. 7B-311.
65. S.L. 2010-90. Current statutes relating to the Responsible Individuals List include G.S. 7B-101(18a) and (19a); 7B-311; and 7B-320, -323, and -324. For more detailed information about the Responsible Individuals List and related procedures, see “Responsible Individuals List,” in Section 1427, Chapter VIII, *State Manual*, cited in full in note 6, <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1427.htm#TopOfPage>.
66. See G.S. 7B-101(18a), -320(a), -323(d).
67. G.S. 7B-101(19a).
68. G.S. 7B-307(b). Effective December 1, 2013, a social services director who receives a report of sexual abuse of a child in a child care facility and knowingly fails to notify the State Bureau of Investigation is guilty of a Class 1 misdemeanor. S.L. 2013-52, sec. 7, added this provision as G.S. 7B-301(c).
69. The terms “child care center” and “family child care home” are defined in G.S. 110-86(3). For provisions relating to the authority of the state Department of

Health and Human Services to investigate reports of child abuse or neglect in child care settings and to impose administrative sanctions, see N.C.A.C. tit. 9, §§ .1901 and .2213(b) (Apr. 2001).

70. G.S. 7B-307(c).

71. G.S. 7B-302(a1).

72. G.S. 7B-2901(b).

73. G.S. 7B-3100(b).

74. G.S. 108A-80.

75. G.S. 7B-302(a1) and -700(a); N.C.A.C. tit. 10A, subch. 70A, § .0113 (Sept. 1991).

76. G.S. 7B-3100(a). The sharing of school information must be in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

77. N.C.A.C. tit. 28, subch. 01A, § .0301 (Apr. 2003).

78. N.C.A.C. tit. 28, subch. 01A, § .0302 (Apr. 2003).

79. N.C.A.C. tit. 28, subch. 01A, § .0302(b) (Apr. 2003).

80. For an excellent discussion of confidentiality concepts and issues, see John L. Saxon, “Confidentiality and Social Services (Part I): What Is Confidentiality?” *Social Services Law Bulletin* No. 30 (Feb. 2001); “Confidentiality and Social Services (Part II): Where Do Confidentiality Rules Come From?” *Social Services Law Bulletin* No. 31 (May 2001); “Confidentiality and Social Services (Part III): A Process for Analyzing Issues Involving Confidentiality,” *Social Services Law Bulletin* No. 35 (Apr. 2002); “Confidentiality and Social Services (Part IV): An Annotated Index of Federal and State Confidentiality Laws,” *Social Services Law Bulletin* No. 37 (Oct. 2002). Each of these articles may be downloaded, in PDF form, at no charge, at <http://shopping.netsuite.com/s.nl/c.433425/sc.7/category.64/f>. For further information, call the School of Government Bookstore at 919.966.4119.