

Child Welfare: Overarching Purposes and Legislative Update

Legal Basics for Health & Human Services
Directors and Administrators



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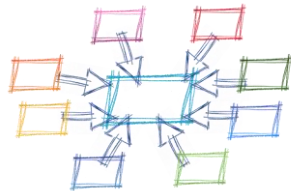
Today Hot Topics

- Overarching Purpose
- Selected Legislative Updates



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What Is the
Purpose of
the Juvenile
Code?



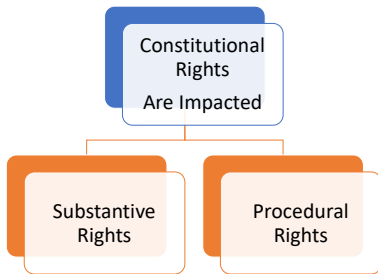
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Purpose

- 1. Fairness & equity, protect **constitutional rights** of children and parents
- 2. Consider facts, **child's** needs & limitations, and the strength & weaknesses of the **family**
- 3. protect **children**, right to **family autonomy** and the children's need for safety, continuity, & permanence
- 4. Prevent **unnecessary or inappropriate separation** of children and their parents
- 5. Ensure **BIC** are paramount consideration by the court; if not returned home, **safe permanent home w/in reasonable period of time**

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Abuse, Neglect, Dependency



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Constitutional Rights

... nor shall any **state** deprive **any person** of life, **liberty**, or property, without **due process** of law...



ART. 1, SEC. 19
NC
CONSTITUTION

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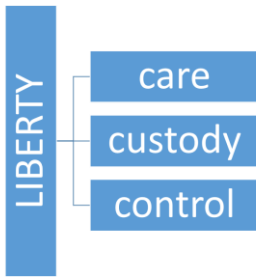
Who Is the State?



County = Agent of the State

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What Does it Mean for Parents?



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Not an Absolute Right

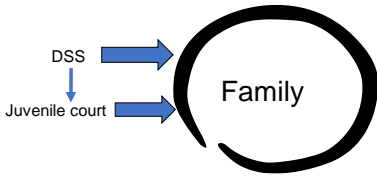
State interfere with parent-child relationship when the parent is

- Unfit
- Has neglected the child or
- Has acted inconsistently with their constitutionally protected interests



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When & how may the state intervene in families for the purpose of child protection?



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Juvenile Code Answers the Question

- Abused juvenile
- Neglected juvenile
- Dependent juvenile

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The Who!

- > Parent
- > Guardian
- > Caretaker (In re R.R.N.)
- > Custodian

- > **Exception!**
- > Minor Victim of Human Trafficking



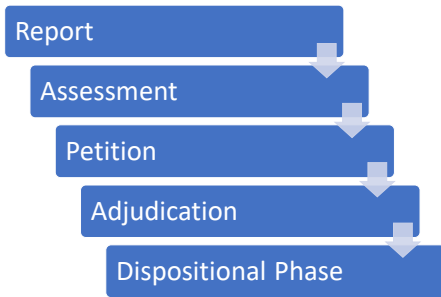
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Balancing Act



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Applies to all stages



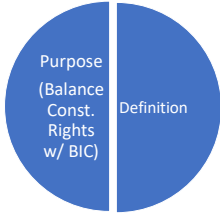
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In re Stumbo, 357 N.C. 279 (2003)

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In re R.R.N.
Caretaker vs. state intrusion with family



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Secure in their persons, houses, papers, & effects against unreasonable searches



- Private residence
- G.S. 7B-302(h)
- G.S. 7B-502

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In re T.R.P., 360 N.C. 588 (2006)



| | | | |
|------------------------------|---------------------------------|--|------------------------------------|
| STATE OF NORTH CAROLINA | | File No. | |
| County | | In The General Court Of Justice District Court Division | |
| IN THE MATTER OF | | | |
| Name And Address Of Juvenile | | JUVENILE PETITION (ABUSE/NEGLECT/DEPENDENCY) | |
| Juvenile's Date Of Birth | Age | Race | Sex |
| Name Of Petitioner | Condition Alleged | G.S. 7B-101, 400, 402 | |
| | <input type="checkbox"/> Abused | <input type="checkbox"/> Neglected | <input type="checkbox"/> Dependent |

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The state may interfere with the parent-child relationship only when the parent is unfit OR has acted inconsistently with their constitutionally protected interest.

Lehr. V. Robertson, 463 U.S. 248 (1983)

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Review and PPH Tracks

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Two Different Tracks
w/in 90 Days
of Initial Disposition

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REVIEW ONLY



Continue in Custody of Parent, Guardian, Custodian, Caretaker*

PPH ONLY



Removed from Custody of Parent, Guardian, or Custodian

Seven horizontal lines for notes.

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Review Hearing: 7B-906.1(d)(1a), (d1), (d2)

| | |
|--------------|--|
| Continuation | Appropriateness of continuation in home of parent, guardian, or custodian (Removal can occur) |
|--------------|--|

Seven horizontal lines for notes.

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Review Hearing: 7B-906.1(d)(1a), (d1), (d2)

| | |
|------------|--|
| Completion | Absent extraordinary circumstances, when P, G, or C completes court-ordered services and juvenile in safe home, court may waive further hearings or termination its jurisdiction |
|------------|--|

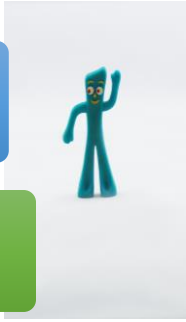
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Switching Tracks

Order different placement or remove custody from P, G, C

PPH within 30 days



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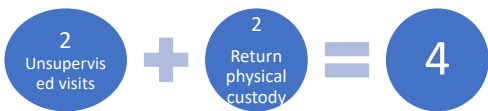
7B-903.1(b1) (Rylan's Law)
Before DSS recommends ...

unsupervised visits or trial placement with *removal* P,G, C,C,

Observe 2 visits w/in 30 days of hearing where DSS recommendation being made

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Possible Total Observations



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New Emergency Hearing (effective Jan. 1st)



Juvenile in DSS Custody
Who Presents to Hospital
for Mental Health Treatment

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First, Effective Oct. 1
G.S. 122C-142.2

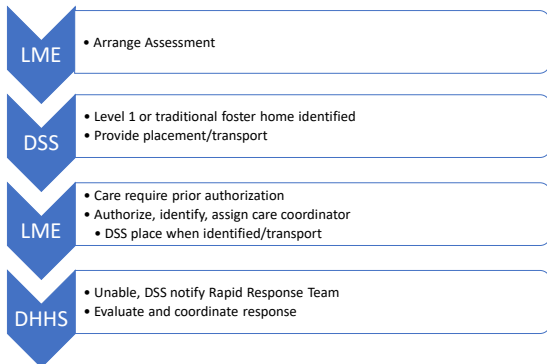
DSS contacts LME/MCO or prepaid health plan

w/in 24 hours of determination juvenile should not remain at hospital and no appropriate placement immediately available



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w/in 5 Business Days



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Court's Findings and Conclusions

Clear and convincing evidence no medical necessity for hospitalization

Responsible party not satisfied G.S. 122C-142.2(b)-(f)

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Horizontal lines for notes

Available Remedies in Order



- May order
- Responsible party to comply with 122C-142.2
 - Pay reasonable hospital charges (after no longer medically necessary)
 - Pay property damage (after no longer medically necessary)
 - Any appropriate relief
 - Parties bear own costs

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Horizontal lines for notes

Order

Entered w/in 72 hours

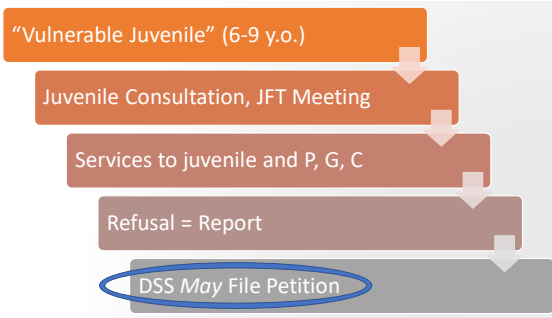
Another hearing w/in 30 days (unless juvenile is discharged)



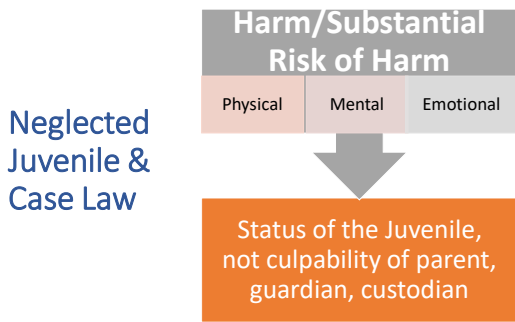
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Changes to Delinquency Laws and DSS involvement



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RIL: Human Trafficking

- Not a parent, guardian, custodian, or caretaker
- Cooperate with law enforcement and DA to determine safest way if possible to give notice
 - Mental/physical harm or danger to juvenile
 - Undermine criminal investigation
 - Jeopardize state's ability to prosecute
- Document if not possible, no further action

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<http://bit.ly/2tnnMOj>

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Resources:
2021 and Feb. 22 editions coming!



On the Civil Side
A UNC School of Government Blog

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