

The Fostering Care in NC Act: Changes to Child Welfare Effective October 1, 2025, Part 1

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This is my second post discussing [S.L. 2025-16](#), the Fostering Care in NC Act. The various sections of this significant 32-page session law have different effective dates. Some sections became effective on June 26, 2025 and are discussed in my previous post – <https://civil.sog.unc.edu/the-fostering-care-in-nc-act-changes-to-child-welfare-and-dss-that-are-effective-now/> – and my colleague’s post discussing changes to DHHS oversight <https://civil.sog.unc.edu/state-oversight-of-county-departments-of-social-services-changes-in-session-law-2025-16/>).

Other sections are effective on October 1, 2025. The focus of this blog is on most of the provisions in Part I of S.L. 2025-16 that become effective on October 1, which is not that far away.

Section 1.1 amends the definitions section of G.S. 7B-101. These amendments are effective for all actions pending or filed on or after October 1, 2025.

The definition of “abused juveniles” is amended by replacing references to numerous specific sex crimes with a reference to G.S. 14-208.6(5), which lists the specific sex crimes in its definition of “sexually violent offense.” This change does not substantively alter the definition of “abused juveniles.” Instead, it ensures that any future changes made to G.S. 14-208.6(5) will be incorporated in the definition of “abused juveniles.”

A new definition is added at G.S. 7B-101(11a) for the “Division,” which is the Division of Social Services at NCDHHS. This is the Division that oversees child welfare practices at a county DSS. Necessary corresponding numerical changes to definitions are made.

A definition of “post-adoption contact agreement and order” is added in G.S. 7B-101(16a). This definition recognizes a new process for a parent’s relinquishment for the adoption of their child when their child is in DSS custody because of a court order in an A/N/D case. The definition is a mediated agreement that is approved by a district court judge that allows for post-adoption contact between the child who is adopted and their former parent. My next blog post will discuss post-adoption contact agreements and orders in more detail.

Section 1.3 authorizes NCDHHS (Division) to review a DSS screen out of a report and/or decision not to file an A/N/D petition. These amendments apply to any review that is requested on or after October 1, 2025.

The responsibility of a DSS to conduct an assessment of a report of abuse, neglect, or dependency is addressed in G.S. 7B-302. An assessment is not initiated unless DSS screens in the report. A new process authorizing the Division to review a DSS decision to screen out a report, meaning no assessment is made, is added to G.S. 7B-302(f). Within 5 working days of when a report is received by DSS, DSS is required to send a written notice to the reporter (unless they waive the notice or make an anonymous report) as to whether the report was screened in for an assessment. Under the amendments to G.S. 7B-302(f), the notice must include (1) a basis for the decision and (2) the procedures the reporter can take to request a review by the Division within 5 working days of receiving the notice. The Division must review the DSS decision to screen out the report within 5 working days from when the Division receives the review request. The Division can affirm the screen out decision or direct DSS to initiate an assessment. The reporter is not precluded from requesting the DSS director review the decision to screen the report out; however, if the reporter does that, they should be mindful of the 5 working day time requirement to request a review from the Division.

For a case that is screened in, DSS must send a second written notice to the reporter within 5 working days of when it completes its assessment as to whether it found abuse, neglect, or dependency; the action (if any) it is taking to protect the juvenile; and whether a petition was filed. The reporter has the right to request a review of a DSS decision not to file a petition. That review was with the prosecutor. Amendments to G.S. 7B-302(g), -305, -306, -308(b), and -403(b) now authorize a review by the prosecutor or the Division.

DSS must include in its notice the procedures for requesting a review by either the prosecutor or Division, and the reporter may request the review from one or both entities within 5 working days of receiving the DSS notice. The entity that receives the request must conduct the review. That entity must also notify the other entity a review was requested within 2 business days of when it received the review request. The other entity may conduct a review as well. If both entities are reviewing the DSS decision, they may conduct an independent or shared review, and they may consult with each other. The review decision may result in the affirmation of the DSS decision not to file a petition, a request for a law enforcement investigation, and/or a directive that DSS file a petition. DSS must file a petition if one of the reviewing entities directs the director to file a petition. The Division has additional authority to direct DSS to take specific protective services action. For example, if DSS substantiated neglect, made a referral, and closed its case, the Division could affirm the DSS decision not to file a petition but direct DSS to open an in-home services case.

Section 1.4 addresses conflicts of interest (COI) for a county DSS.

A new statute, G.S. 7B-302.1, is enacted and effective for all actions pending or filed on or after October 1, 2025. This new statute defines a COI through the identification of 10 circumstances. The majority of those circumstances revolve around relationships with the family by employees of DSS or members of the County's governance; DSS supervision of a foster home where abuse, neglect, or dependency has been alleged; DSS having custody of a juvenile who is also a minor parent; DSS being a court-appointed guardian of a respondent; and when the director in their professional judgment perceives a COI exists.

G.S. 7B-302.1 includes procedures for addressing a COI. The county DSS with the COI must request another county DSS take the case and notify the Division of both the COI and the county DSS that accepted the case. If 2 or more counties do not accept the case, the DSS with the COI must notify the Division. The Division evaluates the COI and determines if the county DSS is able to manage the case by implementing measures that sufficiently obviate the conflict or if not, appoint another county DSS to manage the case. The county DSS with the COI must notify the parent, guardian, custodian, or caretaker in writing 1) that a COI exists, 2) identify the other county DSS that is managing the case, and 3) include contact information for the constituent concern line at the Division. The parent, guardian, custodian, caretaker, juvenile, or any of their representatives may contact the constituent concern line if they believe a COI exists at any point in the case and the case is not referred to another county DSS.

Amendments to G.S. 7B-400(c) also address a COI and are effective for all actions files or pending on or after October 1, 2025. That statute allows for a pre-adjudication change in venue of an A/N/D case but requires the petitioner (DSS) remains the same. The amendment allows for the petitioner to be substituted when the venue change results from a COI. This way the DSS with the COI can be removed as a party and the DSS who accepts the case can be added as a party.

Section 1.5 addresses intervention and removal of parties in an A/N/D case by amending G.S. 7B-401.1 effective for all actions filed or pending on or after October 1, 2025.

Intervention in an A/N/D action is governed by G.S. 7B-401.1 and limits who has the right to intervene. Amendments to G.S. 7B-401.1(h), intervention, authorize the court to allow intervention by a child's current caretaker or current foster parent if that current caretaker or current foster parent has standing to file a TPR petition under G.S. 7B-1103. Typically, that is when the child has been continuously residing with them for 18 consecutive months. This amendment expands who can intervene to now include a child's current caretaker who is not a licensed foster parent, e.g., a relative. Foster parents had this ability to intervene through subsection (e1), and that subsection is now repealed.

The court also has the authority to remove certain parties from an A/N/D action under G.S. 7B-401.1(g). That statute is amended to specify that removal of a guardian, custodian, or caretaker as a party can only happen after an adjudication. There are two findings the court has to make: 1) the person's continuation as a parent is not necessary to meet the child's needs, and 2) the removal of the person as a party is in the child's best interests. This second prong is new and replaces a previous required finding that the person does not have legal rights that may be affected by the action. This new language removes an outstanding question of whether a person with legal custody of a child resulting from a civil custody action could be removed as a party. See *In re J.R.S.*, 258 N.C. App. 612 (2018).

Sections 1.6 and 1.7 amend the procedure for initial nonsecure custody orders, with a focus on those orders that are sought when the clerk's office is closed. These amendments are effective for all actions filed or pending on or after October 1, 2025.

G.S. 7B-502(b) authorizes the chief district court judge to delegate to someone other than a judge the court's authority to approve an initial nonsecure custody order through an administrative order. The amendments limit who can be authorized to approve an initial nonsecure custody request – only a magistrate may have this delegated authority. This change will require chief district court judges to review any existing G.S. 7B-502 administrative order and make appropriate changes. A corresponding change to refer to the magistrate is made to G.S. 7B-506.

Additional amendments to G.S. 7B-502(b) explicitly state the court has authority to issue a nonsecure custody order after the action is commenced by the filing of a petition. Under case law, this was required as a petition must be filed for the court to have subject matter jurisdiction to act on any request. See *In re T.R.P.*, 360 N.C. 588 (2006). Finally, each county must have a judge or delegated magistrate available at all times to a DSS who is requesting nonsecure custody.

Under G.S. 7B-404, a DSS may seek a nonsecure custody order (or an interference/obstruction order under G.S. 7B-303) when the clerk's office is closed and an emergency requires an immediate order. An amendment to G.S. 7B-404 makes clear that a nonsecure custody (or interference/obstruction) order that is signed after hours is effective and enforceable after it is signed by a judicial official. This clarifies that if the order is not entered by the clerk until the next business day, the order is effective immediately.

Amendments are made to G.S. 7B-508 involving telephonic approval for nonsecure custody orders. The first amendment requires the judge or delegated magistrate to receive a copy of the petition by a secure method. The second amendment addresses the signature on a nonsecure custody order and will require a change to the AOC-J-150 form.

The initial nonsecure custody order that is approved telephonically must have 1) the name and title of the person asking for and receiving approval for a nonsecure custody order (this will be DSS employee), 2) the name and title of the judge or delegated magistrate who approves the request for nonsecure custody, 3) the signature and title of the clerk or magistrate who accepted the petition for filing, and 4) the date and hour of when the nonsecure custody order was authorized. It will not be sufficient for a DSS employee to sign the order; instead, a judicial official – the clerk or magistrate – must sign the order. This may require counties to change practices for when they seek initial nonsecure custody orders by telephone.

Section 1.8 amends permanent guardianship to address the appointment of co-guardians and the court’s authority when the co-guardians’ relationship dissolves.

G.S. 7B-600(b) addresses permanent guardianship. Amendments explicitly authorize the appointment of co-guardians. Further amendments are made to allow for the termination of a permanent guardianship when the relationship between the co-guardians dissolves by adding a fifth factor to the statutory enumerated circumstances the court must find before it can terminate a permanent guardianship.

A new subsection, G.S. 7B-600(b1) addresses the dissolution of the co-guardians’ relationship. At a hearing, the court considers whether guardianship is in the child’s best interests and based on the child’s needs and best interests, the court may order the placement be maintained, terminate the guardianship of one or both of the co-guardians, and order any other dispositional alternative identified in G.S. 7B-903. If the court maintains the co-guardianship, it may modify the order to address legal and physical custody, including visitation, between the co-guardians. The court must consider whether ordering custody rather than guardianship and transferring the action to a Chapter 50 action under G.S. 7B-911 is in the child’s best interests.

These changes are effective for all actions pending or filed on or after October 1, 2025.

Section 1.9 changes when a Rule 17 guardian ad litem (GAL) is appointed to an unemancipated minor respondent parent in an A/N/D case.

G.S. 7B-602 addresses a parent’s rights to court-appointed counsel as well as the appointment of a Rule 17 GAL for a respondent parent. For respondent parents who are unemancipated minors, a Rule 17 is appointed based solely on their age. Effective for all actions filed on or after October 1, 2025, amendments to G.S. 7B-602(b) now make it discretionary on the court in appointing a Rule 17 GAL for a respondent parent who is unemancipated and 16 or 17 years old. When determining whether to appoint a Rule 17 GAL, the court may want to consider that a Rule 17 GAL is a GAL of substitution, and

parents, regardless of their age, have paramount constitutional rights to care, custody, and control of their children. See *Troxel v. Granville*, 530 U.C. 745 (2000); *Petersen v. Rogers*, 337 N.C. 397 (1994). For minor parents who are 15 or younger, the GAL appointment continues to be required.

This change does not apply to a termination of parental rights action where the respondent is a minor parent. A Rule 17 GAL must be appointed to that minor parent. G.S. 7B-1101.1(b).

Section 1.13(a) makes changes to review and permanency planning hearings and significantly amends the criteria that apply to review hearings.

Amendments to G.S. 7B-906.1 are effective for all actions filed or pending on October 1, 2025. When determining whether a case will proceed on a review hearing or permanency planning hearing track, G.S. 7B-906.1(a) is amended to identify that the initial dispositional order is what determines the following hearing. If custody is removed from a parent, guardian, or custodian at initial disposition, the case proceeds to a permanency planning hearing. If custody is not removed from a parent, guardian, or custodian at initial disposition, the case proceeds to a review hearing. Whether the child was in nonsecure custody is not considered as the initial dispositional order is what controls whether a review or permanency planning hearing follows.

Changes are made to review hearings through amendments to G.S. 7B-906.1(d)(1a), (d1), and (d2). Language that refers to a review hearing also being noticed as a permanency planning hearing is removed. This indicates a review and permanency hearing cannot be scheduled for the same day. This typically should not happen since the criteria for when each type of hearing significantly differs.

At a review hearing, the court may order the child be removed from the custody of their parent, guardian, or custodian; however, criteria beyond the child's best interests are now imposed. The court may only order the change in custody if at least one factor for nonsecure custody in G.S. 7B-503(a)(1) – (a)(4) or a factor in G.S. 7B-901(c) that authorizes the court to relieve DSS of reunification efforts at initial disposition has occurred since the last hearing and the child has experienced or is at substantial risk of experiencing physical or emotional harm as a result. Removal may also occur if the parent, guardian, or custodian consents. Further, a time limit is imposed for review hearings and the parent's, guardian's, or custodian's expected progress. Within 12 months of when the petition is filed, court-ordered services should be completed, and the resolution of the circumstances that led to DSS's involvement should be demonstrated to the court such that the parent, guardian, or custodian is providing a safe home for the child. See G.S. 7B-101(19) (definition of "safe

home”). The court must terminate its jurisdiction within 12 months absent extraordinary circumstances. Any reference to retaining jurisdiction and waiving review hearings is removed.

Technical corrections are made to reference permanency planning hearings, but one substantive change applies to when the court may waive holding further permanency planning hearings. There are five factors the court must find before it can waive those hearings, and one factor, G.S. 7B-906.1(n)(1) addresses a time requirement. The child must have resided in the placement for at least one year or, under the new amendment, no time period applies if all the parties agree and the court enters a consent order. Remember, the other four factors must still be found even if the parties consent to the G.S. 7B-906.1(n)(1) factor.

Section 1.13(b) removes concurrent permanent plans when reunification is not one of those plans.

Effective in 2015, pursuant to G.S. 7B-906.2, courts were required to adopt concurrent permanent plans at every permanency planning hearing. Over time, exceptions were made including when a permanent plan is achieved. See G.S. 7B-906.2(a1). Effective for all actions pending or filed on or after October 1, 2025, G.S. 7B-906.2(a1) and (b) are amended to remove the requirement that concurrent plans are required when (1) reunification has been removed as a permanent plan because the court relieved DSS of making reasonable efforts toward reunification at initial disposition or (2) reunification has been eliminated as a permanent plan at a permanency planning hearing. In other words, when reunification is not a permanent plan, only one plan is required (e.g., guardianship). This amendment does not mean the court cannot order concurrent permanent plans if reunification is not one of those plans, but it is not required to do so. Importantly, if reunification is identified as a permanent plan, concurrent planning is required. It does not matter if reunification is identified as the primary or secondary plan.

Section 1.13(b) also requires a new hearing before DSS can move a child in its custody from a placement when adoption is a permanent plan and certain criteria exist.

A new subsection to permanency planning, G.S. 7B-906.2(b1), becomes effective for all actions pending or filed on or after October 1, 2025 and focuses on the rights of a current caretaker when DSS is seeking to move a child in its custody from that caretaker and adoption is a primary or secondary permanent plan. If the following criteria apply, before DSS can move a child in its custody from their placement, DSS must first file a motion with the court and request a hearing be held within 30 days. The child must have resided with the current caretaker for the preceding 12 consecutive months. The current caretaker

objects to the child's removal and has notified DSS of their desire to adopt the child. The current caretaker is either a relative, or if they are a nonrelative, there are no relatives who are willing and able to provide proper care and supervision to the child in a safe home.

When these criteria apply and DSS files a motion, the clerk must notice the parties, their attorneys, and the current caretaker. At the hearing, the court must provide the current caretaker with the opportunity to address the court, present evidence, cross-examine witnesses, and be represented by an attorney at their own expense. Although they may act as a party, they are not a party to the proceeding. The court may consider any evidence that is relevant, reliable, and necessary to determine the juvenile's needs and must determine whether the child's removal is in the child's best interests.

The need for a motion and hearing does not apply when 1) there are allegations of abuse or neglect while the juvenile is under the care and supervision of the current caretaker, or 2) the juvenile's change of placement is for reunification with a parent, guardian, or custodian.

Sections 1.13(b) and 1.21(a) address child support.

Effective for all actions pending or filed on or after October 1, 2025, a new subsection, G.S. 7B-906.2(f), requires the court to advise a permanent guardian or custodian of their right to seek child support after the order awarding the permanent guardianship or custody has been entered.

G.S. 50-13.10 addresses past due child support. Effective for all actions pending or filed on or after October 1, 2025, G.S. 50-13.10(d) is amended by the addition of subdivision (5). A child support payment is not past due and no arrearages accrue for foster care assistance that is owed to the State by the supporting party during any period when the child is placed in DSS custody.

Sections 1.3(b), 1.13(a) and 11.14(b) change “clear, cogent, and convincing evidence” to “clear and convincing evidence”. This change applies to 1) the obstruction or interference with a DSS assessment (G.S. 7B-303(c)); 2) waiving further permanency planning hearings under the factors in G.S. 7B-906.1(n); and (3) an adjudication of a termination of parental rights ground (G.S. 7B-1109(f). Although the language differs, there is no substantive difference between the two standards. *In re Montgomery*, 311 N.C. 101 (1984).

And, There's Still More

Part I of S.L. 2025-16 has three other significant provisions involving expungement from the RIL, post-adoption contact agreements and orders, and DSS attorney representation. Those topics will be addressed in future blogs.