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The Fostering Care in NC Act: Changes to Child Welfare and DSS that Are Effective Now



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On June 26, 2025, H612 was signed by the Governor and became S.L. 2025-16. This session law makes significant amendments to the laws addressing juvenile abuse, neglect, and dependency (A/N/D) and the oversight provided by the North Carolina Department of Health and Human Services (NCDHHS) over county departments of social services (DSS). The session law also affects termination of parental rights, adoptions of minors, permanent no contact orders, felony child abuse, and criminal history checks for applicants for city and county jobs that involve working with children. Finally, this session law enacts a guardianship assistance program for certain children who were in DSS custody when guardianship was ordered. The various sections of this significant 32-page session law have different effective dates, with some sections effective on June 26, 2025 and others not effective until as late as April 1, 2026. This blog only summarizes the changes that are effective now.

Section 1.2 addresses the termination of jurisdiction in an A/N/D action. Under G.S. 7B-201(a), the district court's jurisdiction in an A/N/D action continues until the court terminates its jurisdiction by court order or the juvenile turns 18 or is otherwise emancipated, whichever occurs first. Under S.L. 2025-16, G.S. 7B-201 now provides that the court's jurisdiction also terminates upon the juvenile's death – something that unfortunately happens as a result of the abuse or neglect or for other reasons, such as a car accident or natural causes. This amendment clarifies that for any action pending on or filed after June 26, 2025, the case for that child ends at death.

Section 1.11(a) makes amendments to when Rylan's Law observations are required by a county DSS. These amendments apply to any action that is pending or filed on or after June 26, 2025.

Under G.S. 7B-903.1(c), DSS must complete two observations of at least one hour, seven days apart, and thirty days before a dispositional hearing if DSS is going to recommend that the parent, guardian, custodian, or caretaker from whom the child was removed have unsupervised visits or physical custody returned to them. These observations are often referred to as "Rylan's Law." Before S.L. 2025-16, those observations must have occurred before a recommendation for unsupervised visits and again before the return of physical custody. The amendments now make

it so that the observations only need to occur once, before whatever is first – unsupervised visits or the return of physical custody to the parent, guardian, custodian, or caretaker from whom the child was removed.

Under either circumstance, amended G.S. 7B-903(c) requires a hearing be held and that the court make certain determinations. Before the court can order unsupervised visits with the parent, guardian, custodian, or caretaker from whom the child was removed, it must find that unsupervised visits are in the child's best interests. When returning physical custody of the child to the parent, guardian, custodian, or caretaker from whom the child was removed, the court must find that the juvenile will receive proper care and supervision in a safe home. See G.S. 7B-101(19) (defining "safe home").

Sections 1.11(b) and (c) address where DSS can place a child in its custody at both the nonsecure custody and dispositional stages of an A/N/D action. These amendments apply to any action that is pending or filed on or after June 26, 2025.

Section 1.11(b) amends the dispositional alternatives statute, G.S. 7B-903(a)(6), to address the types of placements a DSS with custody of a juvenile may provide. There are four enumerated placement types DSS may arrange for when it has custody of a juvenile:

- a licensed foster home or other home authorized by law to provide such care;
- a facility operated by DSS;
- a facility licensed to provide care to juveniles; or
- a home approved by DSS, including the home of a relative, nonrelative kin, or person who has legal custody of the juvenile's sibling.

Before DSS can place a child in an unlicensed facility or a facility that is not licensed to provide care to juveniles, it must obtain the court's approval, and the placement must be designated in the order.

Section 1.11(c) amends the nonsecure custody placement statute, G.S. 7B-505(a), to make the placement types a DSS with nonsecure custody of the juvenile can arrange for mirror the same criteria in G.S. 7B-903(a)(6) as amended by Section 1.11(b) (see immediately above). Further, G.S. 7B-505(a) continues to allow for nonsecure custody to be granted to "a person designated in the order" but now explicitly states that a parent from whom the child was not removed may receive nonsecure custody of their child.

Sections 1.12 and 1.16 address children who are in DSS custody and are present in a hospital for mental health treatment. These amendments apply to any action that is pending or filed on or after June 26, 2025.

Section 1.16(a) amends G.S. 122C-142.2, a mental health statute that applies to children in DSS custody who are present at a hospital for mental health treatment. When first enacted in 2021, the law was limited to children in DSS custody who sought mental health treatment at a hospital emergency department. That limitation is no longer in effect. Now, G.S. 122C-142.2 is expanded and applies when a child in DSS custody requires mental health treatment and “is present in the hospital by any means,” with an exception for those children who are under an effective involuntary commitment or a voluntary admission order. See G.S. 122C-142.2(b) as amended by S.L. 2025-16.

Under the amendments, a hospital should not release the juvenile without an appropriate plan. New subsection G.S. 122C-142.2(d1) states the hospital shall not release the child until (i) the juvenile meets hospital discharge criteria and (ii) the placement recommended by the comprehensive clinical assessment is available or there is agreement from the parent, guardian, custodian, or DSS director with authority to consent to the child’s treatment under G.S. 7B-505.1 with the child’s release from the hospital.

Changes have also been made to the Rapid Response Team (RRT), including (i) defining the RRT at G.S. 122C-142.2(a)(4); (ii) addressing which entities can make a referral to the RRT and under what circumstances; (iii) identifying the duties of the RRT, which include, when necessary, developing and monitoring a plan with the DSS, the LME/MCO or prepaid health plan, and the hospital; (iv) specifying who may attend the RRT meetings; and (v) addressing confidentiality. See G.S. 122C-142.2(a), (f)–(h) as enacted and amended by S.L. 2025-16.

Additionally, there are some procedural changes to G.S. 122C-142.2, including (i) requiring the hospital to notify the DSS director of the child’s presence in the hospital and (ii) amending some time requirements. See G.S. 122C-142.2(b)–(d) as amended by S.L. 2025-16. Finally, under a new subsection, G.S. 122C-142.2(i), the LME/MCO or prepaid health plan is required to provide monthly data to the Division of Social Services at NCDHHS that addresses the number of juveniles impacted by this statute, the time period to find a placement, and recommendations for each level of care.

Section 1.16(b) requires NCDHHS, by April 1, 2026, to consult with hospitals, prepaid health plans, and DSSs to develop uniform guidance addressing the roles and responsibilities of the different entities that are providing services to juveniles who are in DSS custody and at a hospital for mental health treatment.

Section 1.12 amends G.S. 7B-903.2 (a companion law to G.S. 122C-142.2), which authorizes an emergency motion and hearing in the A/N/D action when a juvenile in DSS custody no longer requires hospitalization for mental health treatment. As with G.S. 122C-142.2, this change removes the limitation that this motion and hearing procedure are only available when a child in DSS custody presents to an emergency department for mental health treatment. This process

now applies to a child in DSS custody who requires mental health treatment and “is present in the hospital by any means,” with an exception for those children who are under an effective involuntary commitment or a voluntary admission order.

Service of the motion on the hospital, LME/MCO or prepaid health plan, and the Division of Social Services must now be made by Rule 4 of the Rules of Civil Procedure. The Division is no longer automatically a party for the hearing but must have the opportunity to be heard in any hearing on the motion. See G.S. 7B-903.2(c) as amended by S.L. 2025-16. The hearing must be held within ten business days of when the motion is served or the next juvenile court session, whichever occurs later. Rather than considering whether “there is no medical necessity for the juvenile to remain in the hospital,” the court must now consider whether “the juvenile met hospital discharge criteria.” Subsection (b1) is added to make clear that a hospital’s failure to reasonably cooperate in providing access to the juvenile under G.S. 122C-142.2 is evidence of a defense of an alleged violation of responsibilities by the DSS or LME/MCO or prepaid health plan. Finally, G.S. 7B-903.2(i) is amended to clarify that if the motion is dismissed because the juvenile has been discharged from the hospital, that dismissal does not preclude a separate cause of action for monetary damages (including monetary damages that accrued under G.S. 7B-903.2(g) (1)–(2)).

Section 1.14(a) addresses the court’s authority over parents, guardians, custodians, or caretakers. The amendments are effective for all actions pending or filed on or after June 26, 2025.

The language in G.S. 7B-904(d1) and (e) is expanded to authorize the court to order a parent, guardian, custodian, or caretaker over whom the court has personal jurisdiction to take certain action. Before this amendment, the language referred to a parent, guardian, custodian, or caretaker who was served with a summons.

Under G.S. 7B-904(d), the court may, at a dispositional hearing, order the parent to pay child support when legal custody of the child is ordered to someone other than the parent. The amendments now require the court to find that the payment would be in the child’s best interest.

Section 1.14(d) addresses reinstatement of parental rights and authorizes a former parent to initiate that action. The amendments made to G.S. 7B-1114 are effective for any actions filed on or after June 26, 2025.

Former parents now have standing to file a motion for reinstatement of their parental rights when the conditions in G.S. 7B-1114(a) exist. A new subsection, G.S. 7B-1114(d1), requires that a pretrial hearing be held within ten business days of when the motion is filed, where the court considers five enumerated factors that address

- whether the criteria under G.S. 7B-1114(a) are met;
- discovery, including what information the former parent has a right to access;
- the appointment of a GAL for the child;
- the identification of the parties; and
- any other issues that can properly be addressed at the pretrial hearing.

If the criteria of G.S. 7B-1114(a) are not satisfied, the court must dismiss the motion.

Section 1.17 addresses NCDHHS oversight over a county DSS's child welfare services. A new subsection, G.S. 108A-74(a5), is effective on June 26, 2025 and is referred to as "Christal's Law."

New subsection (a5) makes clear that the Secretary of NCDHHS has, as part of regular monitoring of a DSS or in response to a complaint NCDHHS has received, the authority to (i) access records and information related to any open or closed child welfare case, unless prohibited by federal law, and (ii) inquire into and review any county DSS social work or legal practice as it relates to the delivery of child welfare services. This authority applies to a particular case or to all of a county or regional DSS's child welfare cases. There is a time limitation for reviews resulting from a complaint that has been received by NCDHHS – the juvenile must have been the subject of a report of abuse, neglect, or dependency within the previous 12 months or the family or juvenile must have received child welfare services within the previous 12 months.

If the Secretary finds violations of state law (including statutes and rules), the Secretary must provide written notice to the DSS director of the violations and a directive with a timeframe for remedying the violations. If the violations are not timely remedied, the Secretary must notify the board of county commissioners, the county manager, and the board of social services, and direct the DSS director to take immediate action to remedy the violations. If a director fails to comply, the DSS will be considered to be acting outside the scope of its agency relationship with NCDHHS, such that NCDHHS is not liable for any claim arising from the director's noncompliance with any statute or rule identified by the Secretary. This language limits the state's liability. This new subsection does not waive, modify, or eliminate any immunity or other legal defenses that would otherwise be available to the county, DSS director, or any other county official or employee.

Sections 2.3 and 2.4 address the guardianship assistance program for children in DSS custody who are at least 10 years old when certain criteria are met and creates KinGAP. In 2017, the guardianship assistance program (GAP) was added to the North Carolina Administrative Code at 10A N.C.A.C. 70P. GAP authorized financial assistance to caregivers who became a child's permanent legal guardian when certain criteria were met, one of which required the child be at least 14 years old when the guardianship was ordered.

Section 2.3 codifies a guardianship assistance program (KinGAP) in Article 2 of G.S. Chapter 108A as Part 4A: Guardianship Assistance. Effective on June 26, 2025, there are four new statutes: G.S. 108A-50.10 through 108A-50.13. Under Section 2.4, the Social Services Commission must adopt emergency rules, then temporary rules, and then permanent rules for the guardianship assistance program consistent with new Part 4A.

Under the new G.S. 108A-50.10, the Division of Social Services at NCDHHS may provide kinship guardianship assistance payments for children who are eligible under federal law (42 U.S.C. 673) when each of the following criteria are met:

- the child was removed from their home through a voluntary placement agreement or court order;
- the child resided in the home of a licensed prospective relative guardian for at least six consecutive months and was eligible for foster care maintenance payments (a relative includes someone who is related by blood, marriage, or adoption or is someone who has a substantial relationship with the child or parent before the child was placed in foster care);
- reunification and adoption are not appropriate;
- the child is at least 10 years old and has a strong attachment with the prospective relative guardian who has a strong commitment to permanently care for the child;
- the child is in DSS custody at the time the guardianship agreement is entered; and
- for children who are 14 or older, they have been consulted about the kinship guardianship arrangement.

An eligible child's sibling who is younger than 10 years old is also eligible for KinGAP. If the relative guardian becomes incapacitated or dies, the child's eligibility for KinGAP continues with a successor guardian. Guardianship assistance may continue through the Foster Care 18–21 program if the guardianship is ordered when the child is 16 or 17 years old and the now young adult meets the criteria for the Foster Care 18–21 program.

Under the new G.S. 108A-50.11, the Division may provide GAP (versus KinGAP) with State funds under substantially similar criteria established in 10A N.C.A.C. 70P .0104. However, the child's age of eligibility is lowered from 14 years old to 10 years old. Unlike KinGAP, this statute does not limit the guardianship to a relative. Additionally, G.S. 108A-50.11 does not address sibling eligibility or the death or incapacity of the guardian.

The new G.S. 108A-50.12 specifies the contents that must be included in the written binding guardianship assistance agreement between DSS and prospective guardian.

Under the new G.S. 108A-50.13, the guardianship assistance rates are the same as the foster care room and board rates specified in G.S. 108A-49.1.

There's More Coming...

S.L. 2025-16 has many other provisions that I will blog about when their effective dates near, the next of which will be October 1, 2025.

This entry was tagged with the following terms: abuse neglect and dependency, department of social services, guardianship, Juvenile Code, new legislation.

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