

Legislative Changes to Child Welfare Law Affecting Magistrates: S.L. 2025-16 (H612)

N.C. G.S. Chapter 7B

§ 7B-405. Commencement of action.

An action is commenced by the filing of a petition in the clerk's office when that office is open or by the acceptance of a juvenile petition by a magistrate when the clerk's office is closed, which shall constitute filing.

Effective October 1, 2025

§ 7B-404. Immediate need for petition when clerk's office is closed.

(a) When the office of the clerk is closed, a magistrate shall accept for filing the following:

- (1) A petition alleging a juvenile to be abused, neglected, or dependent.
- (2) A petition alleging the obstruction of or interference with an assessment required by G.S. 7B-302.

(b) The authority of the magistrate under this section is limited to emergency situations when a petition must be filed to obtain a nonsecure custody order or an order under G.S. 7B-303. Any nonsecure custody order or order under G.S. 7B-303 that is approved pursuant to G.S. 7B-502 when the office of the clerk is closed shall be effective and enforceable after the order is signed by a judicial official. Any petition accepted for filing under this section shall be delivered to the clerk's office for processing as soon as that office is open for business.

§ 7B-502. Authority to issue custody orders; delegation.

(a) In the case of any juvenile alleged to be within the jurisdiction of the court, the court may order that the juvenile be placed in nonsecure custody pursuant to criteria set out in G.S. 7B-503 when custody of the juvenile is necessary. The order for nonsecure custody may be entered ex parte. Unless the petition is being filed pursuant to G.S. 7B-404, telephonic communication that the department will be seeking nonsecure custody shall be given to counsel, or if unavailable, to a partner or employee at the attorney's office when any of the following occur:

- (1) The department has received written notification that a respondent has counsel for the juvenile matter.

- (2) The respondent is represented by counsel in a juvenile proceeding within the same county involving another juvenile of the respondent.

Notice is not required to provisional counsel appointed pursuant to G.S. 7B-602.

(b) Any district court judge shall have the authority to issue nonsecure custody orders pursuant to ~~G.S. 7B-503~~. G.S. 7B-503, once the action is commenced with the filing of a juvenile petition under G.S. 7B-405. The chief district court judge may delegate the court's authority to ~~persons other than district court judges~~ any magistrate by administrative order which shall be filed in the office of the clerk of superior court. ~~The administrative order shall specify which persons shall be contacted for approval of a nonsecure custody order pursuant to G.S. 7B-503.~~ Each county shall have available at all times a judge or delegated magistrate with whom the department may request nonsecure custody of a juvenile or juveniles.

§ 7B-503. Criteria for nonsecure custody.

(a) When a request is made for nonsecure custody, the court shall first consider release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible adult. An order for nonsecure custody shall be made only when there is a reasonable factual basis to believe the matters alleged in the petition are true, and any of the following apply:

- (1) The juvenile has been abandoned.
- (2) The juvenile has suffered physical injury, sexual abuse, or serious emotional damage as defined by G.S. 7B-101(1)e.
- (3) The juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection.
- (4) The juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment.

(5) The parent, guardian, custodian, or caretaker consents to the nonsecure custody order.

(6) The juvenile is a runaway and consents to nonsecure custody.

A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure custody only when there is a reasonable factual basis to believe that there are no other reasonable means available to protect the juvenile. In no case shall a juvenile alleged to be abused, neglected, or dependent be placed in secure custody.

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§ 7B-506. Hearing to determine need for continued nonsecure custody.

(a) No juvenile shall be held under a nonsecure custody order for more than seven calendar days without a hearing on the merits or a hearing to determine the need for continued custody. A hearing on nonsecure custody conducted under this subsection may be continued for up to 10 business days with the consent of the juvenile's parent, guardian, custodian, or caretaker and, if appointed, the juvenile's guardian ad litem. In addition, the court may require the consent of additional parties or may schedule the hearing on custody despite a party's consent to a continuance. In every case in which an order has been entered by ~~an official~~ a magistrate exercising authority delegated pursuant to G.S. 7B-502, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if such session precedes the expiration of the applicable time period set forth in this subsection: Provided, that if such session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

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§ 7B-508. Telephonic communication authorized.

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-501, 7B-503, and 7B-504 may be made by telephone when other means of communication are impractical. A copy of the petition shall be provided to the judge or magistrate who is delegated authority by G.S. 7B-502 by any appropriate secure method, including hand delivery, fax, or encrypted electronic means, or through the court's electronic filing system. All written orders pursuant to telephonic communication shall bear the name and the title of the person ~~communicating by telephone,~~ requesting and receiving telephonic approval, the name and title of the judge or magistrate approving the

initial nonsecure custody order, the signature and the title of the official entering the order, clerk or magistrate who accepted the petition for filing, and the hour and the date of the authorization.

Effective June 26, 2025

§ 7B-505. Placement while in nonsecure custody.

(a) A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure custody with the department of social services or a person designated in the order order, including the parent from whom the juvenile was not removed. The department with placement responsibility is authorized to place the juvenile for temporary residential placement in any of the following:

(1) A licensed foster home or a home otherwise authorized by law to provide such care.

(2) A facility operated by the department of social services

(2a) A facility licensed to provide care to juveniles.

(3) Any other home or facility, including the home of a parent, relative, nonrelative kin, or other person with legal custody of a sibling of the juvenile, approved by the court and designated in the order.

The department shall not place a juvenile in any unlicensed facility or any facility that is not licensed to provide care for juveniles without the sanction of the court and so designated in the order prior to such placement being made.

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Effective April 1, 2026

G.S. 7B-302. Assessment by director; military affiliation; access to confidential information; notification of person making the report.

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(c) If the assessment indicates that abuse, neglect, or dependency has occurred, the director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the director shall immediately provide or arrange for protective services. If the parent, guardian, custodian, or caretaker refuses to accept the protective services provided or

arranged by the director, the director shall sign a petition ~~seeking~~ and if the legal counsel for the department has not also signed the petition, the director shall attest that the petition has been reviewed by the legal counsel for the department. The petition shall allege the applicable facts to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

(d) If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the director shall sign a petition ~~that alleges~~ and if the legal counsel for the department has not also signed the petition, the director shall attest that the petition has been reviewed by the legal counsel for the department. The petition shall allege the applicable facts to invoke the jurisdiction of the court. Where the assessment shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 5 of this Chapter.

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G.S. 7B-403. Receipt of reports; filing of petition.

(a) All reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be ~~drawn~~ reviewed by the director, legal counsel for the department, signed by the director, and verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing. If the legal counsel for the department has not also signed the petition, the director shall attest that the petition has been reviewed by the legal counsel for the department.

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G.S. 7B-303. Interference with assessment.

(a) If any person obstructs or interferes with an assessment required by G.S. 7B-302, the director may sign and file a petition naming that person as respondent and requesting an order directing the respondent to cease the obstruction or interference. The petition shall contain the name and date of birth and address of the juvenile who is the subject of the assessment; shall include a concise statement of the basis for initiating the assessment, shall specifically describe the conduct alleged to constitute obstruction of or interference with the assessment; and shall be verified. If the legal counsel for the department has not also signed the petition, the director shall attest that the petition has been reviewed by the legal counsel for the department.

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