

Mandatory Reporting and Nonsecure Custody

One Day Civil Law for Magistrates, Oct. 2023

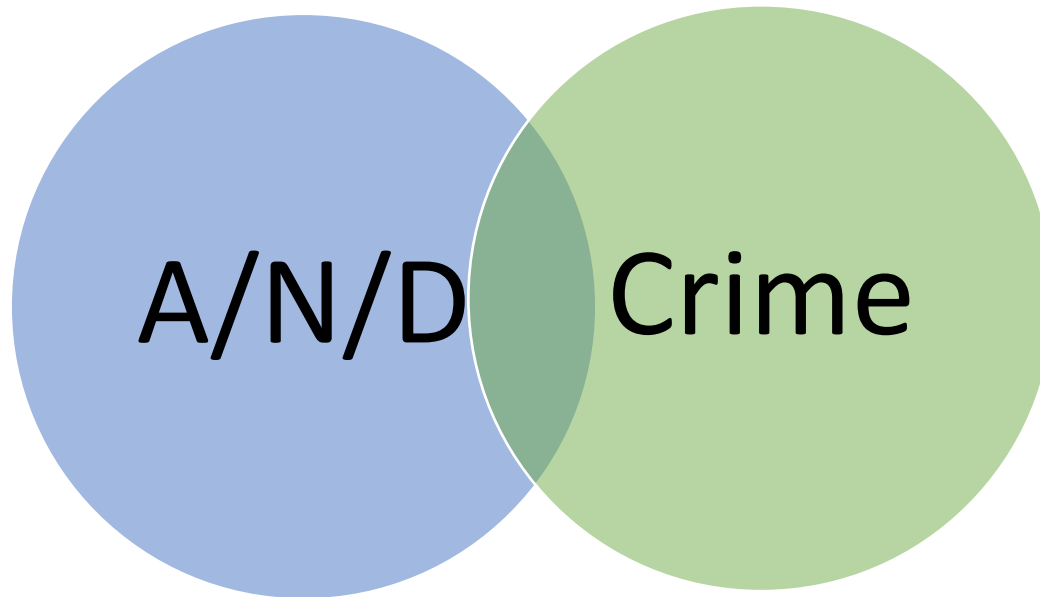
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UNC
SCHOOL OF GOVERNMENT

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Specific Reporting Laws & How they fit together





Commonalities

Universal Reporting: “any person” or “any adult”

Purposes to Protect Juveniles

Good Faith Immunity for Reporter

Protection of Reporter Identity

Differences



Criteria Triggering
Report

Definitions
The Standard



The Agency to Report to




Timing of Making Report



Exemptions



What's Included in Report

A large blue shape on the left side of the slide, resembling a stylized 'L' or a corner of a page. It has a darker blue shadow on its left side, giving it a 3D effect.

**One Additional
Commonality**

**Misdemeanor for
knowing and wanton
violation**

Juvenile

- Under 18 and
- Not
 - Emancipated
 - Married
 - A member of the U.S. Armed Forces

DSS Report

A/N/D

- Government Involvement with the Family
- Cause to Suspect
 - Abuse: Who and What
 - Neglect: Who and What
 - Dependency: Who and What

Minor
Victim of
Human
Trafficking

Abused Juvenile

Neglected Juvenile

THE WHO DOES NOT MATTER!



Neglected Juvenile

- *Parent, guardian, custodian, or caretaker*
 - does not provide proper care, supervision or discipline
 - does not arrange for necessary medical / remedial care
 - has abandoned the juvenile
 - has created an injurious living environment or
 - has placed juvenile for care / adoption in violation of law
-



Abused Juvenile

- *Parent, guardian, custodian, or caretaker*
 - inflicts, allows, or creates substantial risk of serious, non-accidental physical injury
 - uses cruel or grossly inappropriate procedure or device to modify behavior
 - commits or allows various sexual offenses against or by the child
 - creates or allows serious emotional damage
 - encourages, approves, or directs certain delinquent acts by the juvenile
-

Dependent Juvenile

Needs assistance or placement because

- Child has *no parent, guardian, or custodian* responsible for their care, or
 - *No parent, guardian, or custodian*
 - is able to provide for child's care and supervision and
 - parent lacks an appropriate alternative child care arrangement.
-

When and How to Report

- To county DSS where juvenile found or resides
- Orally or writing
- Time is not referenced in law



Contents of Report

- Your name, address, phone (must still act on report if refuse)
- Juvenile's name, age, address, present whereabouts
- Name & address of parent, guardian, custodian, or caretaker
- Any injuries or conditions the juvenile has
- Names & ages of other juveniles in the home
- Other helpful information

Case Scenario

- Dad punches minor son in the mouth, causing injury while at a Chick-Fil-A. Witnesses call 911. Father is arrested and charged with misdemeanor child abuse.
- Do you need to make a report?

Case Scenario

- Parents are in their car in the Wal-Mart parking lot, high. They pass out, and their infant is in the backseat. Bystanders call 911. Officers respond, see drug paraphernalia, conduct search and find a baggie with heroin in the infant's car seat. Infant shows no signs of having ingested heroine. DSS is called to get the infant. Parents are arrested for felony possession of heroin, possession of drug paraphernalia, and misdemeanor child abuse.
- Do you need to make a report?

Case Scenario

- A woman comes to your office to take out charges against her live-in boyfriend for assault on a female, assault by pointing a gun, and false imprisonment. In her affidavit she says all the crimes took place in her children's presence.
- Do you need to make a report?
- Does any district have a form that goes to DSS?
 - Is that form sufficient?

Nonsecure Custody

After Hours Petition



EMERGENCY



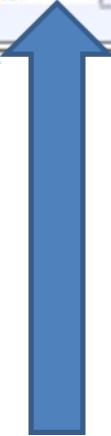
G.S. 7B-404 AND -405

Petition: Verification

		VERIFICATION	
<p>Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true.</p>			
SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<i>Name And Address Of Petitioner</i>	
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>		
<input type="checkbox"/> <i>Deputy CSC</i> <input type="checkbox"/> <i>Clerk Of Superior Court</i> <input type="checkbox"/> <i>District Court Judge</i> <input type="checkbox"/> <i>Assistant CSC</i> <input checked="" type="checkbox"/> <i>Magistrate</i>		<i>Signature Of Petitioner</i>	
<input type="checkbox"/> <i>Notary</i>	<i>Date My Commission Expires</i>	<i>Telephone No.</i>	
SEAL	<i>County Where Notarized</i>	<input type="checkbox"/> <i>Director</i> <input type="checkbox"/> <i>Authorized Representative Of Director</i> <i>County Department of Social Services</i>	

Signature by Petitioner

		VERIFICATION	
Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those alleged upon information and belief, and as to those, I believe it to be true.			
SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<i>Name And Address Of Petitioner</i>	
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>		<i>Signature Of Petitioner</i>
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<input type="checkbox"/> <i>Notary</i>	<i>Date My Commission Expires</i>		
SEAL	<i>County Where Notarized</i>		<input type="checkbox"/> <i>Director</i> <input type="checkbox"/> <i>Authorized Representative Of Director</i> <i>County Department</i>



Director or Authorized Representative

Two Kinds of Nonsecure Custody Orders

Initial

STATE OF NORTH CAROLINA		File No. _____		
_____ County		In The General Court Of Justice District Court Division		
IN THE MATTER OF		ORDER FOR NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY) <small>G.S. 7B-502 through -505.1, -508</small>		
Name And Address Of Juvenile				
Juvenile's Date Of Birth	Age		Race	Sex
Name And Address Of Parent/Guardian/Custodian/Caretaker			Name And Address Of Parent/Guardian/Custodian/Caretaker	

Continued

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice District Court Division
IN THE MATTER OF		ORDER ON NEED FOR CONTINUED NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY) <small>G.S. 7B-506</small>
Name Of Juvenile		

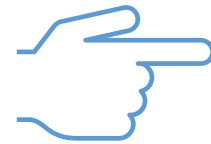
Your Role



Administrative Order:
Who Delegated?



Accept and contact
judge/delegated person



Deliver to clerk's office
next business day

Two Federal Laws

SCRA

- Declaration

ICWA

- Inquiry know/reason to know Indian child

Specific criteria in G.S. 7B-503

Based upon the verified petition, this Court has jurisdiction over the subject matter of this proceeding and of the person of the juvenile.

1. As grounds for the issuance of this Order, the Court finds that there is a reasonable factual basis to believe that the matters alleged in the petition are true, that there are no other reasonable means available to protect the juvenile, and *(check one or more)*

- a. the juvenile has been abandoned.
- b. the juvenile has suffered physical injury, sexual abuse, or serious emotional damage as defined by G.S. 7B-101(1)e.
- c. the juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection.
- d. 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.
- e. the parent, guardian, custodian, or caretaker consents to the nonsecure custody order.
- f. the juvenile is a runaway and consents to nonsecure custody.

Must have 1

Nonsecure Custody

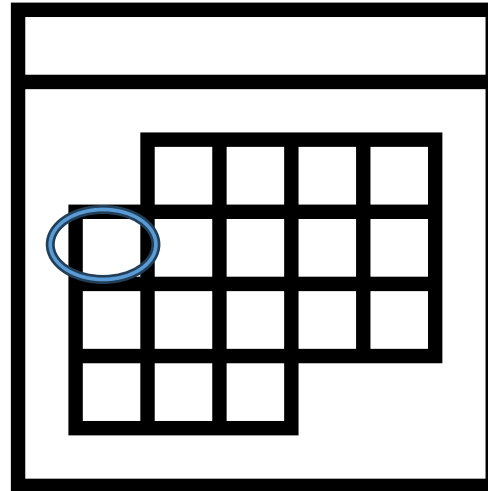
Initial Order



7B-506

Hearing on Need for
Continued Nonsecure
Custody next day of court

Initial on Saturday
Hearing on
Monday



Case Scenario

- On Saturday, a DSS SW comes with a petition and gives it to you. The petition alleges the juvenile has been found by the police locked in a closet while left alone in the home. The SW asks for a nonsecure custody order.
- What do you do?
- When is the next court date?

Case Scenario



- Wednesday at 2 a.m., DSS SW calls you to ask for nonsecure custody and explains infant was found in a car with parents who were overdosing.
- What do you do?

Local Law Enforcement Report

Crime

- Government Involvement with Perpetrator
- Juvenile Victim of Certain Crimes

Who Is a Juvenile?

Crime, if
juvenile
at time

Defines Juvenile as

- Under 18 and
- Not
 - Emancipated
 - Married
 - A member of the U.S. Armed Forces

Criteria to Report: What Crimes

- Victim of violent offense
 - Nonaccidental serious bodily injury
 - Substantial risk of death
 - Permanent disfigurement/loss of function/protracted extreme pain
 - Nonaccidental serious physical injury
 - Great pain and suffering
- Victim of sexual violent offense
- Victim of misdemeanor child abuse
 - Under 16 y.o.
 - Parent/other person providing supervision
 - Nonaccidental physical injury



Standard

Knows or should have
reasonably known

When and How to Report

- Immediately
- Orally or writing



Contents of Report

- Your name, address, phone
- Juvenile's name, age, address, present whereabouts
- Name & address of parent, guardian, custodian
- Name, address, age of perpetrator
- Location of offense
- Nature & extent of any injury or condition
- Names & ages of other juveniles present or in danger
- Other helpful information

Case Scenario

- Mom picks up 11 y.o. child from Dad, who pursuant to a custody order has every other weekend visitation. Mom notices the child has a black eye. When she asks what happened, her son says dad hit him when they were arguing over him being on the phone at dinner. Mom wants to charge dad with misdemeanor child abuse. You find probable cause and issue a warrant for dad's arrest.
- Do you need to make a report?

Case Scenario

- A 15 year old comes to your office with a concerned adult to take out charges against mom for assault. Over the last several months, mom has been beating the teen with a phone charger cord. You can see current bruises and cuts from the beating. You also see what appears to be scars that look the same as the cuts. You believe the injuries constitute felony child abuse. You instruct the adult to take the teen to the appropriate law enforcement agency to begin an investigation. The adult and teen leave.
- Is this sufficient?

Case Scenario

- A couple comes to your office to get married. The soon-to-be husband is 21. The soon-to-be bride just turned 18. There are several witnesses who surround the couple. The soon-to-be bride does not appear comfortable and keeps looking at the large group of witnesses in a way that causes you concern.
- Do you need to make a report?
- What if she was 17 and her parents were the only witnesses and are telling her she must do this for them?

Multiple Reports May Be Required

