

NC Statutes Addressing Older Youth that Impact Permanency Planning

7B-912. Juveniles 14 years of age and older; Another Planned Permanent Living Arrangement.

(a) In addition to the permanency planning requirements under G.S. 7B-906.1, at every permanency planning hearing for a juvenile in the custody of a county department of social services who has attained the age of 14 years, the court shall inquire and make written findings regarding each of the following:

- (1) The services provided to assist the juvenile in making a transition to adulthood.
- (2) The steps the county department of social services is taking to ensure that the foster family or other licensed placement provider follows the reasonable and prudent parent standard as provided in G.S. 131D-10.2A.
- (3) Whether the juvenile has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

(b) At or before the permanency planning hearing immediately following the juvenile's seventeenth birthday and at each permanency planning hearing thereafter, the court shall (i) inquire as to whether the juvenile has a copy of the juvenile's birth certificate, Social Security card, health insurance information, drivers license or other identification card, any educational or medical records the juvenile requests, and information about how the juvenile may participate in the foster care 18-21 program authorized by G.S. 108A-48, and (ii) determine the person or entity that should assist the juvenile in obtaining these documents before the juvenile attains the age of 18 years.

(b1) The department shall include in its report to the court at every hearing after the juvenile's seventeenth birthday all of the following information:

- (1) The department's efforts to identify and secure viable placement options for when the juvenile attains the age of 18 years.
- (2) A list of appropriate adults who can serve as resources for the juvenile when the juvenile attains the age of 18 years.
- (3) Contact information of the person responsible for overseeing voluntary foster care placements with young adults in the county department of social services with custody or placement responsibility of the juvenile and in the county department of social services in the county where the juvenile plans to reside at the age of 18 years.
- (4) If appropriate, whether the juvenile has information about how he or she may maintain contact with his or her siblings, parents, or relatives when the juvenile attains the age of 17 years.
- (5) Whether the department has provided the juvenile with a point of contact to secure Medicaid and maintain physical and mental health services for which the juvenile will be eligible when the juvenile attains the age of 18 years.
- (6) Whether the department has provided the juvenile with information about educational, vocational, or job plans for when the juvenile attains the age of 18 years.

(c) If the court finds each of the following conditions applies, the court shall approve Another Planned Permanent Living Arrangement (APPLA) as defined by P.L. 113-183, as the juvenile's primary permanent plan:

- (1) The juvenile is 16 or 17 years old.
 - (2) The county department of social services has made diligent efforts to place the juvenile permanently with a parent or relative or in a guardianship or adoptive placement.
 - (3) Compelling reasons exist that it is not in the best interest of the juvenile to be placed permanently with a parent or relative or in a guardianship or adoptive placement.
 - (4) APPLA is the best permanency plan for the juvenile.
- (d) If the court approves APPLA as the juvenile's permanent plan, the court shall, after questioning the juvenile, make written findings addressing the juvenile's desired permanency outcome.

§ 131D-10.1. Foster Care Children's Bill of Rights; purpose.

(a) It is the policy of this State to strengthen and preserve the family as a unit consistent with a high priority of protecting children's welfare. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family. However, the State recognizes there are instances when protecting a child's welfare outweighs reunifying the family unit, and as such, the care of residential care facilities providing high quality services that include meeting the children's educational needs as determined by the Department of Health and Human Services, Division of Social Services can satisfy the standard of protecting a child's welfare, regardless of the child's age, particularly when the sibling groups can be kept intact. To that end, the General Assembly promotes the following in the provision of foster care:

- (1) A safe foster home free of violence, abuse, neglect, and danger.
- (2) First priority regarding placement in a home with siblings.
- (3) The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time.
- (4) Allowing the child to remain enrolled in the school the child attended before being placed in foster care, if at all possible.
- (5) Having a social worker, when a child is removed from the home, to immediately begin conducting an investigation to identify and locate all grandparents, adult siblings, and other adult relatives of the child to provide those persons with specific information and explanation of various options to participate in placement of a child.
- (6) Participation in school extracurricular activities, community events, and religious practices.
- (7) Communication with the biological parents if the child placed in foster care receives any immunizations and whether any additional immunizations are needed if the child will be transitioning back into a home with his or her biological parents.

(8) Establishing and having access to a bank or savings account in accordance with State laws and federal regulations.

(9) Obtaining identification and permanent documents, including a birth certificate, social security card, and health records by the age of 16, to the extent allowed by federal and State law.

(10) The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings.

(11) Meaningful participation in a transition plan for those phasing out of foster care, including participation in family team, treatment team, court, and school meetings.

A violation of subdivisions (1) through (11) of this subsection shall not be construed to create a cause of action under this section against the State, the Department of Health and Human Services, or a person or entity providing foster care pursuant to this Article

...

Federal Laws Addressing APPLA and Involvement of Older Youth

***42 U.S.C.A. § 675**

(1)(B) [the case plan includes] A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan. With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.

...

(1)(D) For a child who has attained 14 years of age or over, a written description of the programs and services which will help such child prepare for the transition from foster care to a successful adulthood.

...

(5)(C) with respect to each such child, (i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency

hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or only in the case of a child who has attained 16 years of age (in cases where the State agency has documented to the State court a compelling reason for determining, as of the date of the hearing, that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, subject to section 675a(a) of this title, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 14, the services needed to assist the child to make the transition from foster care to a successful adulthood; (ii) procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful adulthood, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; and (iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;

...

(I) each child in foster care under the responsibility of the State who has attained 14 years of age receives without cost a copy of any consumer report (as defined in [section 1681a\(d\) of Title 15](#)) pertaining to the child each year until the child is discharged from care, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report, and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care

without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and a driver's license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005.

****42 U.S.C.A. § 675a***

(a) Requirements for another planned permanent living arrangement

In the case of any child for whom another planned permanent living arrangement is the permanency plan determined for the child under section 675(5)(C) of this title, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

(1) Documentation of intensive, ongoing, unsuccessful efforts for family placement

At each permanency hearing held with respect to the child, the State agency documents the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the State agency to return the child home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children.

(2) Redetermination of appropriateness of placement at each permanency hearing

The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:

(A) Ask the child about the desired permanency outcome for the child.

(B) Make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to--

- (i) return home;**
- (ii) be placed for adoption;**
- (iii) be placed with a legal guardian; or**
- (iv) be placed with a fit and willing relative.**

(3) Demonstration of support for engaging in age or developmentally-appropriate activities and social events

At each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure that--

(A) the child's foster family home or child care institution is following the reasonable and prudent parent standard; and

(B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(b) List of rights

The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include—

(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 675(5)(I) of this title in accordance with that section, and the right to stay safe and avoid exploitation; and

(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

Reasonable and Prudent Parent Standard: Older Youth

G.S. 7B-903.1. Juvenile placed in custody of a department of social services.

(a) Except as prohibited by federal law, the director of a county department of social services with custody of a juvenile shall be authorized to make decisions about matters not addressed herein that are generally made by a juvenile's custodian, including, but not limited to, educational decisions and consenting to the sharing of the juvenile's information. The court may delegate any part of this authority to the juvenile's parent, foster parent, or another individual.

(b) When a juvenile is in the custody or placement responsibility of a county department of social services, the placement provider may, in accordance with G.S. 131D-10.2A, provide or withhold permission, without prior approval of the court or county department of social services, to allow a juvenile to participate in normal childhood activities. If such authorization is not in the juvenile's best interest, the court shall set out alternative parameters for approving normal childhood activities.

...

G.S. 131D-10.2A. Reasonable and prudent parent standard.

*(a) The reasonable and prudent parent standard is the standard characterized by careful and sensible parental decisions that are reasonably intended to maintain the health, safety, and best interests of the child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

(b) Every child care institution shall designate an on-site official who is authorized to apply the reasonable and prudent parent standard pursuant to this section.

(c) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, or the county department of social services, must use the reasonable and prudent parent standard when determining whether to allow a child in foster care to participate in extracurricular, enrichment, and social activities.

(d) A caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, may be held liable for an act or omission of the child if the caregiver fails to act in accordance with the reasonable and prudent parent standard under this section. To the extent it may be applicable, the liability of a county department of social services, or the Department of Health and Human Services, shall be strictly adjudicated according to and in compliance with the terms of G.S. 153A-435, et seq., or G.S. 143-291, et seq., as applicable.

Nothing in this subsection is intended to abrogate or diminish the qualified immunities of public officials acting in the course and scope of their employment.

(e) Unless otherwise ordered by a court with jurisdiction pursuant to G.S. 7B-200, a caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, exercising the reasonable and prudent parent standard has the authority to provide or withhold permission, without prior approval of the court or a county department of social services, to allow a child in foster care, in the custody of a county department of social services, or under the placement authority of a county department of social services through a voluntary placement agreement to participate in normal childhood activities. Normal childhood activities shall include, but are not limited to, extracurricular, enrichment, and social activities and may include overnight activities outside the direct supervision of the caregiver for periods of over 24 hours and up to 72 hours.

(f) The caregiver, including the child's foster parent, whether the child is in a family foster home or a therapeutic foster home, or the designated official at a child care institution where the child is placed, shall not be liable for injuries to the child that occur as a result of acting in accordance with the reasonable and prudent parent standard.

(g) The immunity provided in subsection (f) of this section does not apply if it is determined that the injuries to the child were caused by gross negligence, willful and wanton conduct, or intentional wrongdoing, or arose out of the operation of a motor vehicle. Any liability under this subsection that may be attributable to either the county department of social services or the Department of Health and Human Services shall be strictly adjudicated according to and in compliance with the terms of G.S. 153A-435, et seq., or G.S. 143-291, et seq., as applicable. Nothing in this subsection is intended to abrogate or diminish the qualified immunities of public officials acting in the course and scope of their employment.

(h) For any action under this section, the burden of proof with respect to a breach of the reasonable and prudent parent standard shall be by clear and convincing evidence.

**The state definition mirrors the federal definition found at 42 U.S.C.A. §675(10)*

Note, 42 U.S.C.A. § 675 Definitions

...

(11)(A) The term “age or developmentally-appropriate” means--

- (i)** activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(ii) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

...

N.C. G.S. 48A-4. Certain minors competent to contract.

A minor who is 16 years of age or older and who is in the legal custody of the county department of social services shall be qualified and competent to contract for the purchase of an automobile insurance policy with the consent of the court with continuing jurisdiction over the minor's placement under G.S. 7B-1000(b). The minor shall be responsible for paying the costs of the insurance premiums and shall be liable for damages caused by the minor's negligent operation of a motor vehicle. No State or local government agency, foster parent, or entity providing services to the minor under contract or at the direction of a State or local government agency shall be responsible for paying any insurance premiums or liable for damages of any kind as a result of the operation of a motor vehicle by the minor.

G.S. 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.

(a) Process. – Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

- (1) Level 1. – Driving with a limited learner's permit.
- (2) Level 2. – Driving with a limited provisional license.
- (3) Level 3. – Driving with a full provisional license.

A permit or license issued under this section must indicate the level of driving privileges granted by the permit or license.

...

(i) Application. – An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be:

- (1) The applicant's parent or guardian;
- (2) A person approved by the applicant's parent or guardian; or
- (3) A person approved by the Division.
- (4) With respect to minors in the legal custody of the county department of social services, any of the following:
 - a. A guardian ad litem or attorney advocate appointed to advocate for the minor under G.S. 7B-601.
 - b. The director of the county department of social services or the director's designee.

c. If no person listed in sub-subdivision a. or b. of this subdivision is available, the court with continuing jurisdiction over the minor's placement under G.S. 7B-1000(b).

G.S. 20-309. Financial responsibility prerequisite to registration; must be maintained throughout registration period.

...

(a2) Notwithstanding any other provision of this Chapter, an owner's policy of liability insurance issued to a foster parent or parents, which policy includes an endorsement excluding coverage for one or more foster children residing in the foster parent's or parents' household, may be certified as proof of financial responsibility, provided that each foster child for whom coverage is excluded is insured in an amount equal to or greater than the minimum limits required by G.S. 20-279.21 under some other owner's policy of liability insurance or a named nonowner's policy of liability insurance. The North Carolina Rate Bureau shall establish, with the approval of the Commissioner of Insurance, a named driver exclusion endorsement or endorsements for foster children as described herein.

Foster Care 18-21

See also, Chapter 8 of the Abuse, Neglect, Dependency/TPR Manual

G.S. 7B-401.1. Parties

...

(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the young adult in foster care and the director of the department of social services are parties.

G.S. 7B-910.1. Review of voluntary foster care placements with young adults.

(a) The court shall review the placement of a young adult in foster care authorized by G.S. 108A-48(c) when the director of social services and a young adult who was in foster care as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not more than 90 days from the date the agreement was executed, and the court shall make findings from evidence presented at this review hearing with regard to all of the following:

(1) Whether the placement is in the best interest of the young adult in foster care.

(2) The services that have been or should be provided to the young adult in foster care to improve the placement.

(3) The services that have been or should be provided to the young adult in foster care to further the young adult's educational or vocational ambitions, if relevant.

(b) Upon written request of the young adult or the director of social services, the court may schedule additional hearings to monitor the placement and progress toward the young adult's educational or vocational ambitions.

(c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young adult in the initial or any subsequent hearing.

(d) The clerk shall give written notice of the initial and any subsequent review hearings to the young adult in foster care and the director of social services at least 15 days prior to the date of the hearing.

(e) When the young adult elects to terminate the agreement, the agreement may be terminated without a return to court. When the department elects to terminate the agreement over the objection of the young adult, the department shall file a motion to bring the matter back before the court for resolution.

G.S. 131D-10.2B. Foster care until 21 years of age.

(a) A child placed in foster care who has attained the age of 18 years may continue receiving foster care services until reaching 21 years of age as provided by law. A child who initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive foster care services at a later date until reaching 21 years of age.

(b) A child who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under G.S. 108A-48(c).

G.S. 108A-48. State Foster Care Benefits Program.

...

(c) The Department may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services until reaching 21 years of age if the individual is (i) completing secondary education or a program leading to an equivalent credential, (ii) enrolled in an institution that provides postsecondary or vocational education, (iii) participating in a program or activity designed to promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or (v) incapable of completing the educational or employment requirements of this subsection due to a medical condition or disability.

(d) With monthly supervision and oversight by the director of the county department of social services or a supervising agency, an individual receiving benefits pursuant to subsection (c) of this section may reside outside a foster care facility in a college or university dormitory or other semi-supervised housing arrangement approved by the director of the county department of social services and continue to receive benefits pursuant to this section.

G.S. 108A-49. Foster care and adoption assistance payments

(e) If all other eligibility criteria are met, adoption assistance payments may continue until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age of 16 but prior to reaching the age of 18.

10A NCAC 70P .0104 Guardianship Assistance Program Eligibility

...

(6) If the child was placed in a legal guardianship arrangement at the age of 16 years or 17 years, he or she remains eligible to receive Guardianship Assistance until 21 years of age if, upon turning 18 years of age, he or she meets any of the following conditions:

- (a) Completing secondary education or a program leading to an equivalent credential;
- (b) Enrolled in an institution that provides post-secondary or vocational education;
- (c) Participating in a program or activity designed to promote or remove barriers to employment;
- (d) Employed for at least 80 hours per month; or
- (e) Is incapable of doing any of the previously described educational or employment activities due to a medical condition or disability.

