

Legislative Changes to Child Welfare Law Affecting Magistrates

2025 One Day Civil Law Seminar for Magistrates

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In Context

1. What is A/N/D
2. After Hours Petitions
3. Petition Signature and Verification
4. Nonsecure Custody

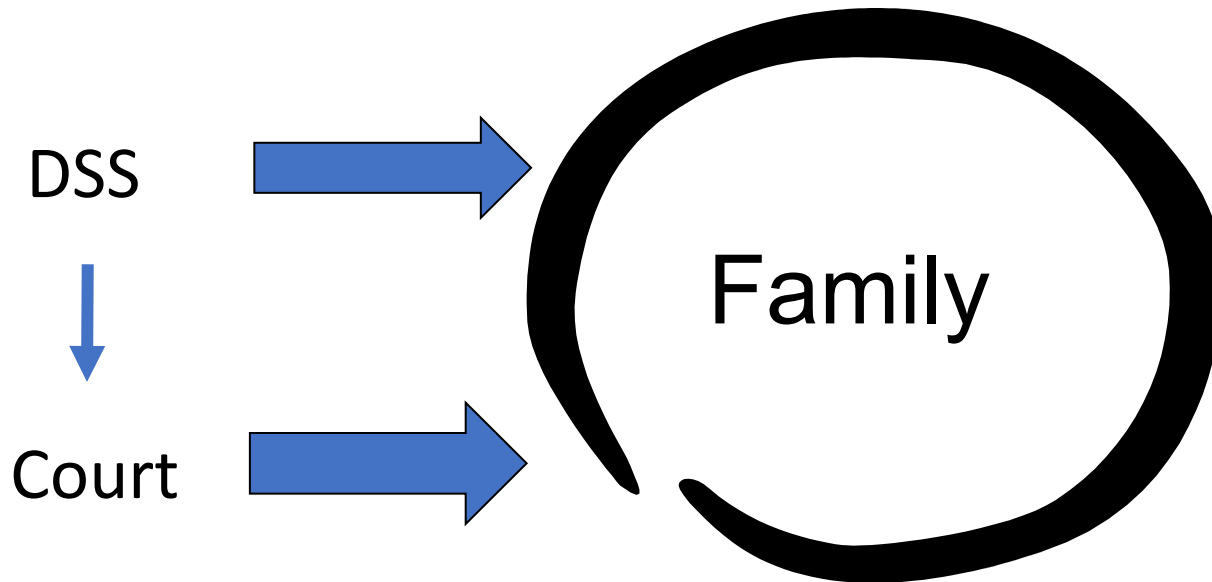
1. What Is A/N/D?



Government Action

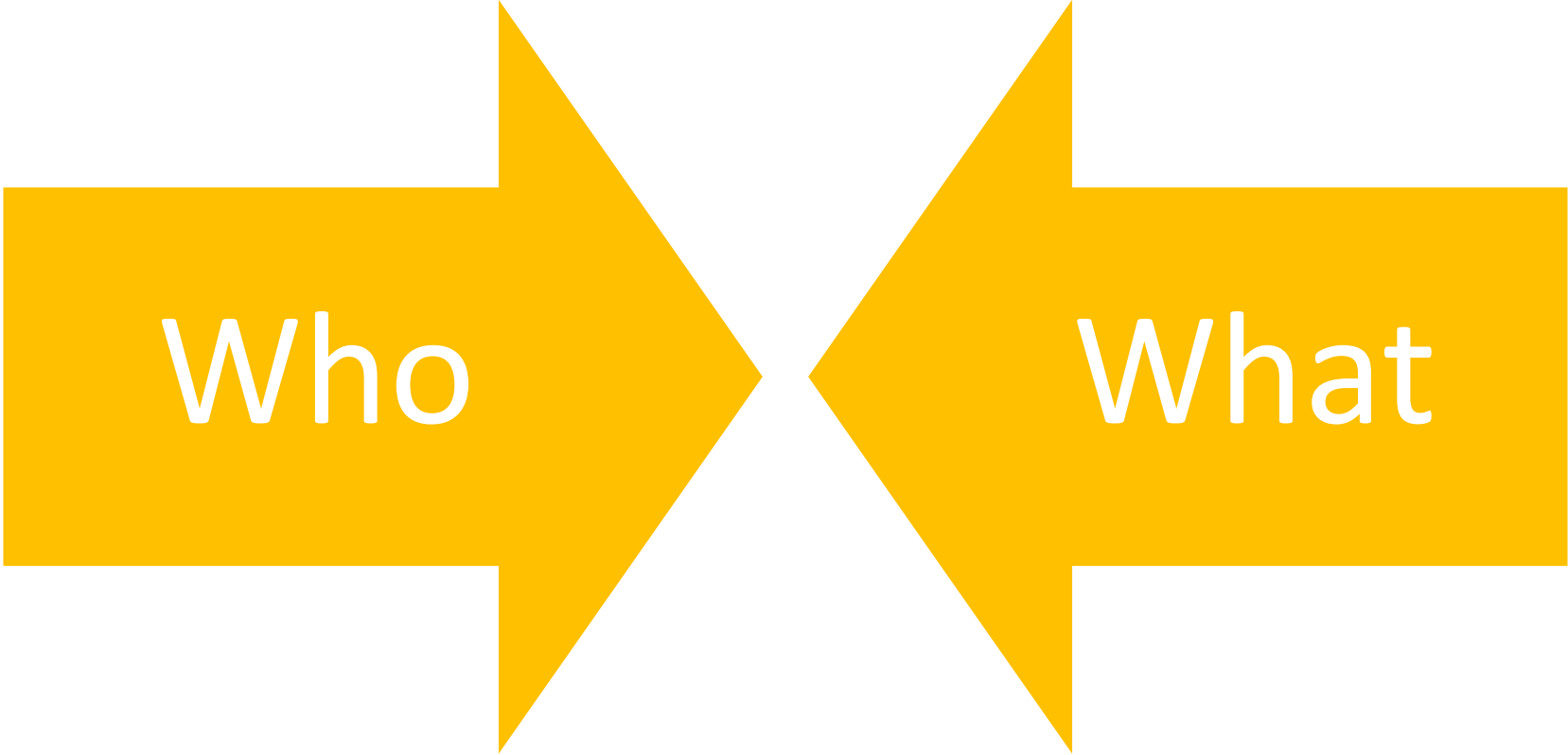


When & how may the state intervene in families for the purpose of child protection is based on the definitions in the Juvenile Code



Definitions Matter

G.S. 7B-101(1), (3), (8), (9), (15)



Who

What

Circumstances created by

Parent

Guardian

Custodian

Caretaker

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
 - has placed juvenile for care / adoption in violation of law or
 - *Parent, guardian, custodian*
 - refused to follow recommendations of JFT for “vulnerable juvenile”
-

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
-

Any Minor
Victim of
Human
Trafficking

THE WHO DOES NOT MATTER!

Abused Juvenile

Neglected 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.
-



Purpose

G.S. 7B-100; -900

- Fair Procedures
- Protect Constitutional rights
- Family autonomy
- Prevent unnecessary separation
- Standards for Removal
- Strengthen family
- Appropriate plan
- Services
- Safety, continuity, permanence
- Needs of Juvenile
- Safe, permanent home with reasonable period of time
- Juvenile's best interests

Safe Home

A home in which the juvenile
is not at substantial risk of
physical or emotional abuse
or neglect.

G.S. 7B-101(19)

2. After Hours Petitions



Authority

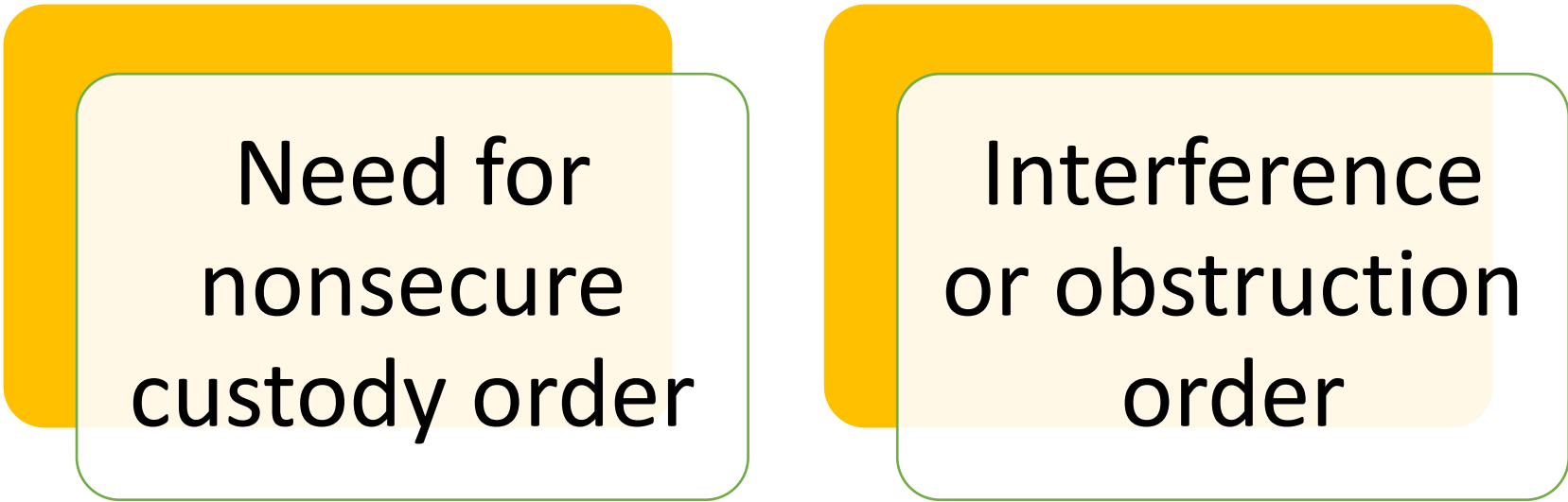


EMERGENCY



G.S. 7B-404 AND -405

Two Circumstances



Need for
nonsecure
custody order

Interference
or obstruction
order



Statutory Language: 7B-404

- a) “When the office of the clerk is closed, a magistrate *shall* accept for filing...”
 - b) “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.”
-



Statutory Language: G.S. 7B-405

“An action is commenced ... by the acceptance of a juvenile petition by a magistrate when the clerk’s office is closed, which shall constitute filing.”



S.L. 2025-16: G.S. 7B-502

“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.”

3. Petition Signature and Verification

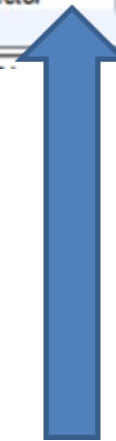


Petition: Verification

		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 matters 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>	
☐ Deputy CSC ☐ Clerk Of Superior Court ☐ District Court Judge ☐ Assistant CSC ☒ Magistrate			
☐ Notary	<i>Date My Commission Expires</i>	<i>Telephone No.</i>	
SEAL	<i>County Where Notarized</i>	☐ Director ☐ Authorized Representative Of Director	
		_____ County Department of Social Services	

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		Name And Address Of Petitioner	
Date	Signature Of Person Authorized To Administer Oaths		
☐ Deputy CSC	☐ Clerk Of Superior Court	☐ District Court Judge	Signature Of Petitioner
☐ Assistant CSC	☐ Magistrate		
☐ Notary	Date My Commission Expires		Telephone No.
SEAL	County Where Notarized		☐ Director ☐ Authorized Representative Of Director
			County Department



Director or Authorized Representative

S.L. 2025-16

All Petitions Filed on or after April 1, 2026

- A/N/D Petition: G.S. 7B-302(c), (d); -403(a)
- Interference Petition: G.S. 7B-303(a)

“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.”

Is it subject matter
jurisdiction?

In re T.R.P., 360 N.C. 588 (2006)



4. 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) G.S. 7B-502 through -505.1, -506	
Name And Address Of Juvenile			
Juvenile's Date Of Birth			
Age			
Race		Name And Address Of Parent/Guardian/Custodian/Caretaker	
Sex			
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) G.S. 7B-506	
Name Of Juvenile			

Your Role



Administrative
Order:
Is a Magistrate
Delegated?



Accept and
contact judge or if
delegated address
request



Deliver to clerk's
office next
business day



S.L. 2025-16: Administrative Order G.S. 7B-502

“The chief district court judge may delegate the court’s authority to **any magistrate...**”



S.L. 2025-16: Administrative Order G.S. 7B-502

“...once the action is commenced with the **filing of a juvenile petition** under G.S. 7B-405.”

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

Abandoned

Physical injury, sexual abuse, or serious emotional damage

Substantial risk of physical injury or sexual abuse

Needs medical treatment to prevent serious physical harm (death, disfigurement, substantial impairment of bodily functions) an P,G,C,C unable or unwilling to consent

P, G, C, C consent

Juvenile is a runaway and consent

Does this
criteria
apply to all
A/N/D
petitions?



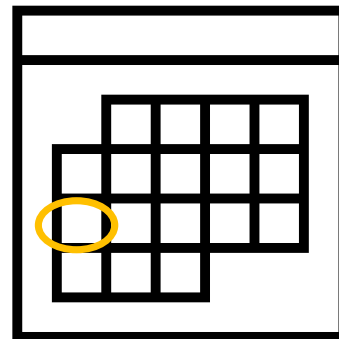


Other Criteria

- Reasonable factual basis to believe
 - Allegations in petition are true
 - No other means available to protect the juvenile
-

7B-506:
Hearing 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.

You grant it, 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.

You grant it, when is the next court date?



No Delegated Authority

G.S. 7B-508:
Telephonic Communication Authorized



S.L. 2025-16: Administrative Order

G.S. 7B-508

“A copy of the petition shall be provided to the judge... by any appropriate secure method...”

S.L. 2026-16: G.S. 7B-508

Signature/Telephonic Approval



Name and title of person requesting and receiving telephonic approval



Name and title of judge or magistrate approving order



Signature and title of clerk or magistrate who accepted petition for filing



Hour and date of authorization

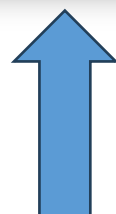
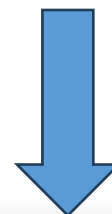


S.L. 2025-16: G.S. 7B-404

“... effective and enforceable after the order is signed by a judicial official.”

AOC-J-150

New Form October 1st



Date		Signature Of Judge/Delegated Magistrate	
Maximum Duration Of Custody		Name Of Judge/Delegated Magistrate (type or print)	☐ Judge ☐ Delegated Magistrate
Complete the following section when seeking an order by telephonic communication pursuant to G.S. 7B-508:			
Date Of Authorization	Time Of Authorization ☐ AM ☐ PM	Name And Title Of Person Requesting And Receiving Telephonic Approval	
Name Of Judge/Delegated Magistrate Approving The Order ☐ Judge ☐ Delegated Magistrate		Signature And Title Of Clerk/Magistrate Who Accepted The Petition For Filing	

Case Scenario

On Saturday, a DSS SW comes with a petition and gives it to you. There is no administrative order delegating a magistrate to decide on a nonsecure custody order request. 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?

Who signs?

Questions?

1. What is A/N/D
2. After Hours Petitions
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