

**INTRODUCTION:**  
**THE SOCIAL SERVICES SYSTEM AND THE ATTORNEY'S ROLE**

**I. Background**

A primary function of county government is the delivery of services to the people. Social services is a complex, expensive service delivery system within county government. It is a complex system in terms of

- the number and variety of different programs,
- federal/state/county involvement and relationships,
- funding mechanisms, and
- the number and types of laws that affect it.

In North Carolina, counties are the state's primary agents for administering statewide services. As units of local government, counties derive their authority from the state and cannot act without specific legal authority. In addition, counties are subject to state mandates--the legislature's assignment to local government of responsibility for administering a service, or for providing a service in a certain manner--which may or may not be accompanied by state funding.

Since 1900, when the responsibility for financing and administering government services was largely the responsibility of local governments, North Carolina has been a leader in a national trend toward centralized, *i.e.*, state, financial responsibility. By 1934, the state was financing most of the services that had been major county functions in 1900 -- public schools, roads and highways, and prisons. It also had responsibility for administering roads, highways, and the prison system, and it funded a major share of public health program costs.

The state's role in social services also increased, but more modestly. In contrast to, and perhaps partly because of, the state's assumption of other major responsibilities, both the funding and administration of social services remained primarily county responsibilities. Beginning with the passage of the Social Security Act in 1935, the federal government has played an increasing role in both funding and defining the administrative requirements of social services programs. In North Carolina, the state has played an increasing supervisory and funding role, but North Carolina is in the minority of states that continue to have county-administered social services systems.

**II. The Role of Each Level and Branch of Government--Overview**

- A. Program creation/establishment
- B. Funding
- C. Regulation and Policy
- D. Administration
- E. Monitoring and Enforcement
- F. Interpretation

	LEGISLATIVE	EXECUTIVE	JUDICIAL
FEDERAL			
STATE			
COUNTY			

### **III. The County's Role**

In North Carolina, most public social services programs are administered by counties, with supervision from the state. The federal and state governments play major roles in establishing, funding, and regulating social services programs. But many responsibilities--including ultimate responsibility for delivering quality services to citizens in a timely, efficient, and cost-effective way--rest with the counties.

#### **A. Statutory Powers and Duties of the County Social Services Board**

1. To establish county policies for social services programs in conformity with rules of the state Social Services Commission (or, for Medicaid, rules of the Department of Human Resources) and under supervision of the Department of Human Resources. [G.S. 108A-1]
2. To select (and to dismiss if necessary) the county social services director pursuant to state merit system rules. The board also determines the director's salary, with approval of the board of county commissioners, in accordance with the State Personnel Commission's classification plan. [G.S. 108A-9(1), -12, and -13] Since the social services board hires and may fire the director, it is advisable for the board to have--and preferably for the board and director to agree on--a procedure for evaluating the director's performance.
3. To advise county and municipal authorities in developing policies and plans to improve the community's social conditions. [G.S. 108A-9(2)]
4. To consult with the county social services director about problems relating to the director's office. [G.S. 108A-9(3)]
5. To assist the director in planning budgets for the county social services department and to transmit or present the department's budget to the board of county commissioners. [G.S. 108A-9(3) & (4)]
6. To enter into contracts to provide services for a fee. [G.S. 108A-10] Such fees may not conflict with state laws or regulations or exceed the cost of providing the service for which they are charged. They must be based on a plan recommended by the social services director and approved by the social services board and the board of county commissioners. The social services board must report annually to the county commissioners receipts from any such fees.
7. To approve a decision by the board of commissioners to appoint a licensed attorney or designate the county attorney to serve as a special county attorney for social service matters. [G.S. 108A-16 and -18] The duties of such an attorney include serving as legal advisor to the county board of social services and representing the board in appeal proceedings and litigation relating to appeals.
8. To carry out whatever other duties and responsibilities the General Assembly, the Department of Human Resources, the Social Services Commission, or the board of county commissioners assigns to the board. [G.S. 108A-9(5)]

**B. Statutory Powers and Duties of the County Social Services Director**

1. To serve as executive officer of the county social services board and act as its secretary. [G.S. 108A-14(1)]
2. To appoint departmental staff under the state merit system rules. [G.S. 108A-14(2)]
3. To administer public assistance and social services programs under applicable regulations. [G.S. 108A-14(3)]
4. To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county social services board. [G.S. 108A-14(4)]
5. To act as the agent of the state Social Services Commission and the Department of Human Resources in relation to work they require in the county. [G.S. 108A-14(5)]
6. To investigate adoption cases and supervise adoptive placements. [G.S. 108A-14(6)]
7. To issue employment certificates to children under regulations of the State Department of Labor. [G.S. 108A-14(7)]
8. To supervise domiciliary homes for aged or disabled persons under the state Social Services Commission's rules and regulations. [G.S. 108A-14(8)]
9. To assist and cooperate with the Department of Correction and its representatives. [G.S. 108A-14(9)]
10. To investigate reports of child abuse and neglect and take appropriate action to protect such children. [G.S. 108A-14(11)] [The Juvenile Code, G.S. Chapter 7B, assigns to the director a number of other specific duties in relation to abused and neglected children.]
11. To accept children for placement in foster homes and supervise each placement for as long as the child needs foster care. [G.S. 108A-14(12)]
12. To investigate proposed adoptive placements of children. [G.S. 108A-4(13)]
13. To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and take appropriate action to protect these adults. [G.S. 108A-14(14)] [G.S. Chapter 108A, Article 6, assigns to the director a number of other specific duties in relation to disabled adults who are abused, neglected, or exploited.]

This list is not exhaustive. Other statutes address the director's duties or authority in such areas as guardianship of incompetent adults, services to the blind, and unclaimed bodies.

### **C. Statutory Powers and Duties of the Board of County Commissioners**

A primary role of the board of county commissioners in relation to social services programs is ensuring the adequacy of funds for social services in the county budget. But commissioners also have a number of other powers and responsibilities.

1. To determine whether the county has a 3- or 5-member social services board, and to appoint one (two, if it is a five-member board) of the members. [G.S. 108A-2, -3]
2. To establish per diem rates and policies for subsistence and travel reimbursement for county social services board members. [G.S. 108A-8]
3. To approve, along with the board of social services, fees to cover the cost of certain voluntary services the social services board contracts to provide. [G.S. 108A-10]
4. To approve the county social services director's salary. [G.S. 108A-13]
5. To appoint or designate, with the approval of the social services board, a licensed attorney or the county attorney to serve as a special county attorney for social service matters, and to determine the amount of such attorney's compensation. [G.S. 108A-16, -17, -18] The duties of such an attorney include serving as legal advisor to the board of county commissioners on social service matters.
6. To determine whether financial assistance for certain disabled persons will be provided under the State-County Special Assistance for Adults Program. [G.S. 108A-45]
7. To be responsible, through the county social services department, for the administration and operation of the Food Stamp Program in the county. [G.S. 108A-51]
8. To decide what non-mandated assistance programs or services the county will provide using only county funds. [G.S. 153A-255]
9. To determine which county agency will operate the child-support enforcement program in the county. [G.S. 110-141] [This authority does not apply to almost one third of the counties, in which this program is administered by the state.]
10. To levy taxes required to meet the county's share of the nonfederal cost of public assistance expenses assigned to the county. [G.S. 108A-90]
11. Prescribe office hours to be observed by county departments. [Board of county commissioners may do this under G.S. 153A-94.]