

Selected Child Welfare Confidentiality Laws

Statutes

§ 7B-302. Assessment by director; access to confidential information; notification of person making the report.

(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an assessment, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child.

(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except under the following circumstances:

- (1) The department shall disclose confidential information to any federal, State, or local government entity or its agent in order to protect a juvenile from abuse or neglect. Any confidential information disclosed to any federal, State, or local government entity or its agent under this subsection shall remain confidential with the other government entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.
- (1a) The department shall disclose confidential information regarding the identity of the reporter to any federal, State, or local government entity or its agent with a court order. The department may only disclose confidential information regarding the identity of the reporter to a federal, State, or local government entity or its agent without a court order when the entity demonstrates a need for the reporter's name to carry out the entity's mandated responsibilities.
- (2) The information may be examined upon request by the juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated.

- (3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the court, for in camera review, if the surrender is necessary to make the required determinations.
- (4) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review prior to releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (2) of this subsection.
- (5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700 of this Subchapter.

§ 7B-505.1. Juvenile placed in nonsecure custody of a department of social services.

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(d) For any care or treatment provided, the director shall make reasonable efforts to promptly notify the parent, guardian, or custodian that care or treatment will be or has been provided and give the parent or guardian frequent status reports on the juvenile's treatment and the care provided. Upon request of the juvenile's parent, guardian, or custodian, the director shall make available to the parent, guardian, or custodian any results or records of the aforementioned evaluations, except when prohibited by G.S. 122C-53(d). The results of a Child Medical Evaluation shall only be disclosed according to the provisions of G.S. 7B-700.

(e) Except as prohibited by federal law, the department may disclose confidential information deemed necessary for the juvenile's assessment and treatment to a health care provider serving the juvenile.

§ 7B-700. Sharing of information; discovery.

(a) Sharing of Information. – A department of social services is authorized to share with any other party information relevant to the subject matter of an action pending under this Subchapter. However, this subsection does not authorize the disclosure of the identity of the reporter or any uniquely identifying information that would lead to the discovery of the reporter's identity in accordance with G.S. 7B-302 or the identity of any other person where the agency making the information available determines that the disclosure would be likely to endanger the life or safety of the person.

(b) Local Rules. – The chief district court judge may adopt local rules or enter an administrative order addressing the sharing of information among parties and the use of discovery.

(c) Discovery. – Any party may file a motion for discovery. The motion shall contain a specific description of the information sought and a statement that the requesting party has made a reasonable effort to obtain the information pursuant to subsections (a) and (b) of this section or that the information cannot be obtained pursuant to subsections (a) and (b) of this section. The motion shall be served upon all parties pursuant to G.S. 1A-1, Rule 5. The motion shall be heard and ruled upon within 10 business days of the filing of the motion. The court may grant, restrict, defer, or deny the relief requested. Any order shall avoid unnecessary delay of the hearing, establish expedited deadlines for completion, and conform to G.S. 7B-803.

(d) Protective Order. – Any party served with a motion for discovery may request that the discovery be denied, restricted, or deferred and shall submit, for in camera inspection, the document, information, or materials the party seeks to protect. If the court enters any order granting relief, copies of the documents, information, or materials submitted in camera shall be preserved for appellate review in the event of an appeal.

(e) Redisclosure. – Information obtained through discovery or sharing of information under this section may not be redisclosed if the redisclosure is prohibited by State or federal law.

(f) Guardian Ad Litem. – Unless provided otherwise by local rules, information or reports obtained by the guardian ad litem pursuant to G.S. 7B-601 are not subject to disclosure pursuant to this subsection, except that reports and records shall be shared with all parties before submission to the court.

§ 7B-2901. Confidentiality of records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court.

The following persons may examine the juvenile's record maintained pursuant to this subsection and obtain copies of written parts of the record without an order of the court:

- (1) The person named in the petition as the juvenile;
- (2) The guardian ad litem;
- (3) The county department of social services; and
- (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian.

(b) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by the Department or under placement by the

court, which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; interviews with the juvenile's family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile. The records maintained pursuant to this subsection may be examined only in the following circumstances:

- (1) The juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated, may examine the records.
 - (2) A district or superior court judge of this State presiding over a civil matter in which the department is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department may surrender the requested records to the court, for in camera review, if surrender is necessary to make the required determinations.
 - (3) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review before releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (1) of this subsection.
 - (4) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700.
- (c) In the case of a child victim, the court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim.
- (d) The court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem.

§ 7B-3100. Disclosure of information about juveniles.

(a) The Division, after consultation with the Conference of Chief District Court Judges, shall adopt rules designating certain local agencies that are authorized to share information concerning juveniles in accordance with the provisions of this section. Agencies so designated shall share with one another, upon request and to the extent permitted by federal law and regulations, information that is in their possession that is relevant to any assessment of a report of child abuse, neglect, or dependency or the provision or arrangement of protective services in a child abuse, neglect, or dependency case by a local department of social services pursuant to the authority granted under Chapter 7B of the General Statutes or to any case in which a

petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the protective services case is closed by the local department of social services, or if a petition is filed when the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that may be designated as "agencies authorized to share information" include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Division of Juvenile Justice of the Department of Public Safety, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts, and, pursuant to the provisions of G.S. 7B-3000(e1), the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety. Any information shared among agencies pursuant to this section shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents and except as provided in G.S. 7B-3102.

Regulations

10A NCAC 70A .0113 CONFIDENTIALITY OF COUNTY DSS PROTECTIVE SERVICES RECORDS

(a) The county director shall not allow anyone outside of the county department of social services other than state and federal agency personnel carrying out their lawful responsibilities for program audit and review to examine a protective services case record as described in Rule .0112 of this Subchapter unless:

- (1) the judge orders the county director to allow examination; or
- (2) the child or the child's attorney requests to examine his own record.

(b) The county director in carrying out his duties may share information and a summary of documentation from the case record without a court order with public or private agencies or individuals that are being utilized to provide or facilitate the provision of protective services to a child.

(c) The county director shall allow the District Attorney or his designee access to the case record, including any information or documentation therein, which he needs to carry out his mandated responsibilities that result from a report of confirmed abuse or from the county director's decision not to file a petition.

14B NCAC 11A .0301 DESIGNATED AGENCIES AUTHORIZED TO SHARE INFORMATION

The following agencies shall share with one another upon request, information in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined or delinquent:

- (a) The Department of Juvenile Justice & Delinquency Prevention;
- (b) The Office of Guardian Ad Litem Services of the Administrative Office of the Courts;
- (c) County Departments of Social Services;
- (d) Area mental health developmental disability and substance abuse authorities;
- (e) Local law enforcement agencies;
- (f) District attorneys' offices as authorized by G.S. 7B-3100;
- (g) County mental health facilities, developmental disabilities and substance abuse programs;
- (h) Local school administrative units;
- (i) Local health departments; and
- (j) A local agency designated by an administrative order issued by the chief district court judge of the district court district in which the agency is located, as an agency authorized to share information pursuant to these Rules and the standards set forth in G.S. 7B-3100.

14B NCAC 11A .0302 INFORMATION SHARING AMONG AGENCIES

- (a) Any agency that receives information disclosed pursuant to G.S. 7B-3100 and shares such information with another authorized agency, shall document the name of the agency to which the information was provided and the date the information was provided.
- (b) When the disclosure of requested information is prohibited or restricted by federal law or regulations, a designated agency shall share the information only in conformity with the applicable federal law and regulations. At the request of the initiating designated agency, the designated agency refusing the request shall inform that agency of the specific law or regulation that is the basis for the refusal.