

Article 8.

Hearing Procedures.

**§ 7B-800. Amendment of petition.**

The court, in its discretion, may permit a petition to be amended. The court shall direct the manner in which an amended petition shall be served and the time allowed for a party to prepare after the petition has been amended. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2010-90, s. 11.)

**§ 7B-800.1. Pre-adjudication hearing.**

(a) Prior to the adjudicatory hearing, the court shall consider the following:

- (1) Retention or release of provisional counsel.
- (2) Identification of the parties to the proceeding.
- (3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
- (4) Whether relatives, parents, or other persons with legal custody of a sibling of the juvenile have been identified and notified as potential resources for placement or support.
- (5) Whether all summons, service of process, and notice requirements have been met.
- (5a) Whether the petition has been properly verified and invokes jurisdiction.
- (6) Any pretrial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance of the adjudicatory hearing in accordance with G.S. 7B-803.
- (7) Any other issue that can be properly addressed as a preliminary matter.

(b) The pre-adjudication hearing may be combined with a hearing on the need for nonsecure custody or any pretrial hearing or conducted in accordance with local rules.

(c) The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G.S. 7B-801. (2013-129, s. 18; 2014-16, s. 1; 2015-135, s. 2.3; 2015-136, s. 8.)

**§ 7B-801. Hearing.**

(a) At any hearing authorized or required under this Subchapter, the court in its discretion shall determine whether the hearing or any part of the hearing shall be closed to the public. In determining whether to close the hearing or any part of the hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:

- (1) The nature of the allegations against the juvenile's parent, guardian, custodian or caretaker;
- (2) The age and maturity of the juvenile;
- (3) The benefit to the juvenile of confidentiality;
- (4) The benefit to the juvenile of an open hearing; and
- (5) The extent to which the confidentiality afforded the juvenile's record pursuant to G.S. 132-1.4(l) and G.S. 7B-2901 will be compromised by an open hearing.

(b) No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.

(b1) Nothing in this Subchapter precludes the court in an abuse, neglect, or dependency proceeding from entering a consent adjudication order, disposition order, review order, or permanency planning order when each of the following apply:

- (1) All parties are present or represented by counsel, who is present and authorized to consent.
- (2) The juvenile is represented by counsel.
- (3) The court makes sufficient findings of fact.

(c) The adjudicatory hearing shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 60 days from the filing of the petition unless the judge pursuant to G.S. 7B-803 orders that it be held at a later time. (1979, c. 815, s. 1; 1998-202, s. 6; 1998-229, ss. 5, 22; 1999-456, s. 60; 2011-295, s. 5.)

#### **§ 7B-802. Conduct of hearing.**

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

#### **§ 7B-803. Continuances.**

The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting a continuance. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2013-129, s. 19.)

#### **§ 7B-804. Rules of evidence.**

Where the juvenile is alleged to be abused, neglected, or dependent, the rules of evidence in civil cases shall apply. (1979, c. 815, s. 1; 1981, c. 469, s. 17; 1998-202, s. 6; 1999-456, s. 60.)

#### **§ 7B-805. Quantum of proof in adjudicatory hearing.**

The allegations in a petition alleging that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2010-90, s. 12; 2013-129, s. 20.)

#### **§ 7B-806. Record of proceedings.**

All adjudicatory and dispositional hearings shall be recorded by stenographic notes or by electronic or mechanical means. Records shall be reduced to a written transcript only when timely notice of appeal has been given. The court may order that other hearings be recorded. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

#### **§ 7B-807. Adjudication.**

(a) If the court finds from the evidence, including stipulations by a party, that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. A record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

(a1) Repealed by Session Laws 2013-129, s. 21, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing required by this subsection. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2001-208, s. 17; 2001-487, s. 101; 2005-398, s. 3; 2010-90, s. 13; 2011-295, s. 6; 2013-129, s. 21.)

#### **§ 7B-808. Predisposition report.**

(a) The court shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court may proceed with the dispositional hearing without receiving a predisposition report if the court makes a written finding that a report is not necessary.

(b) The director of the department of social services shall prepare the predisposition report for the court containing the results of any mental health evaluation under G.S. 7B-503, a placement plan, and a treatment plan the director deems appropriate to meet the juvenile's needs.

(c) The chief district court judge may adopt local rules or make an administrative order addressing the sharing of the reports among parties, including an order that prohibits disclosure of the report to the juvenile if the court determines that disclosure would not be in the best interest of the juvenile. Such local rules or administrative order may not:

- (1) Prohibit a party entitled by law to receive confidential information from receiving that information.
- (2) Allow disclosure of any confidential source protected by statute. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-140, s. 2; 2004-203, s. 17.)