

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1373

Short Title: Juvenile Justice Reform Act.

(Public)

Sponsors: Representatives Neely, Baddour, Bowie, Cunningham, Moore, Redwine, Sutton; Alexander, Black, Church, Cole, Culpepper, Dickson, R. Hunter, Hurley, Luebke, McCrary, Miller, Morris, Mosley, Rayfield, Rogers, Saunders, Sexton, and Warner.

Referred to: Judiciary II, if favorable, Appropriations.

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE DEPARTMENT OF JUVENILE JUSTICE, TO AMEND AND RECODIFY THE NORTH CAROLINA JUVENILE CODE, TO MAKE CONFORMING CHANGES TO THE STATUTES, AND TO APPROPRIATE FUNDS, AS RECOMMENDED BY THE COMMISSION ON JUVENILE CRIME AND JUSTICE.

The General Assembly of North Carolina enacts:

PART I. ESTABLISHMENT OF THE DEPARTMENT OF JUVENILE JUSTICE AND CONFORMING STATUTORY CHANGES.

Section. 1. (a) Articles 24 and 24A of Chapter 7A of the General Statutes, Article 2 of Chapter 110 of the General Statutes, and Chapter 134A of the General Statutes are repealed.

(b) Chapter 143B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12.

"Department of Juvenile Justice.

"Part 1. General Provisions.

"§ 143B-511. Department of Juvenile Justice – creation.

1 There is hereby created and constituted a department to be known as the 'Department
2 of Juvenile Justice,' with the organization, powers, and duties defined in Article 1 of this
3 Chapter, except as modified in this Article.

4 **"§ 143B-512. Definitions.**

5 The following definitions shall apply to this Article, unless the context or subject
6 matter otherwise requires:

- 7 (1) Chief court counselor. – The person responsible for administration and
8 supervision of juvenile intake, probation, and post-release supervision in
9 each judicial district, operating under the supervision of the Secretary of
10 the Department of Juvenile Justice.
- 11 (2) Community-based program. – A program providing nonresidential or
12 residential treatment to a juvenile under the jurisdiction of the juvenile
13 court in the community where the juvenile's family lives. A
14 community-based program may include specialized foster care, family
15 counseling, shelter care, and other appropriate treatment.
- 16 (3) Court. – The district court division of the General Court of Justice.
- 17 (4) Court counselor. – A person responsible for probation and post-release
18 supervision to juveniles under the supervision of the chief court
19 counselor.
- 20 (5) Custodian. – The person or agency that has been awarded legal custody
21 of a juvenile by a court.
- 22 (6) Department. – The North Carolina Department of Juvenile Justice.
- 23 (7) Detention facility. – A facility authorized to provide secure confinement
24 and care for juveniles. Detention facilities include both State and
25 locally administered detention homes, centers, and facilities.
- 26 (8) District. – Any district court district as established by G.S. 7A-133.
- 27 (9) Judge. – Any district court judge.
- 28 (10) Judicial district. – Any district court district as established by G.S. 7A-
29 133.
- 30 (11) Juvenile court. – Any district court exercising jurisdiction pursuant to
31 this Chapter.
- 32 (12) Juvenile court services. – Any type of residential or nonresidential
33 program for juveniles who are under the jurisdiction of the juvenile
34 court which provides services to a juvenile in the community where the
35 juvenile's family lives. Juvenile court services may include family
36 counseling, restitution, victim-offender mediation, and other appropriate
37 services.
- 38 (13) Juvenile facilities. – A State-operated training school, detention facility,
39 multipurpose group home, or other residential institution for committed
40 delinquents previously operated by the Department of Juvenile Justice.
- 41 (14) Juvenile Crime Prevention Councils. – Councils in each county that are
42 appointed by the boards of county commissioners in the respective
43 counties. The Councils develop plans and administer funds for

1 dispositional community service and delinquency prevention and
2 annually evaluate services and programs.

3 (15) Post-release supervision. – The supervision of a juvenile who has been
4 returned to the community after having been committed to the
5 Department of Juvenile Justice.

6 (16) Probation. – The status of a juvenile who has been adjudicated
7 delinquent, is subject to specified conditions under the supervision of a
8 court counselor, and may be returned to the court for violation of those
9 conditions during the period of probation.

10 (17) Programs. – Any type of residential or nonresidential program or service
11 for youth that may be developed by the Secretary as authorized by this
12 Article.

13 (18) Prosecutor. – The district attorney or assistant district attorney assigned
14 by the district attorney to juvenile proceedings.

15 (19) Secretary. – The Secretary of the Department of Juvenile Justice.

16 **§ 143B-513. Department of Juvenile Justice – duties.**

17 (a) The Department of Juvenile Justice shall act to:

18 (1) Protect the public from acts of juvenile delinquency;

19 (2) Provide services to juveniles to assist them to become productive,
20 responsible citizens;

21 (3) Provide for a statewide and uniform system of juvenile probation and
22 post-release supervision that provides adequate and appropriate services
23 to certain children who are found to be within the juvenile jurisdiction
24 of the district court;

25 (4) Authorize an intake process for diversion of selected juvenile offenders
26 from the juvenile justice system;

27 (5) Plan, develop, and coordinate comprehensive multidisciplinary services
28 and programs statewide for prevention, early intervention, and
29 rehabilitation of juveniles;

30 (6) Implement training school programs that provide appropriate mental
31 health and substance abuse treatment and care according to the needs of
32 the juveniles and provide quality educational programs, including
33 vocational and technical education in coordination with other local and
34 State services and resources for juveniles; and

35 (7) Ensure that personnel responsible for the care, supervision, and
36 treatment of juveniles are appropriately apprised of the requirements of
37 this Article and trained in specialized and cultural diversity areas to
38 comply with standards established by Chapter 7B of the General
39 Statutes.

40 (b) In addition to the powers and duties mandated in subsection (a) of this section,
41 the Department may release or transfer a juvenile from a secure custody facility to
42 another secure custody facility when necessary to appropriately administer the juvenile's
43 commitment. The Department shall notify the court that committed the juvenile to the

1 Department, in writing, of its intent to release or transfer the juvenile. If the court does
2 not respond within 10 days after receipt of the notice, the release or transfer shall be
3 deemed granted.

4 (c) The Department may also provide consulting services and technical assistance
5 to courts, law enforcement agencies, and other agencies, local governments, and public
6 and private organizations, and may develop or assist Juvenile Crime Prevention Councils
7 in developing community needs, assessments, and action programs relating to prevention
8 and treatment of delinquent and undisciplined behavior.

9 (d) The Department shall annually collect and report budget expense data for
10 every program operated and contracted by the Department. The budget and expense data
11 shall conform to a format approved by the Department and to any statutory requirements
12 and shall include information and data on all State-operated and contracted programs for
13 the purpose of comparing programs. The Department shall submit an annual budget and
14 expense report to the Office of the Governor no later than February 1 each year.

15 (e) The Department shall develop a cost-benefit model and apply the model to
16 each State-funded program. Program commitment and recidivism rates shall be
17 components of the model. In developing the model, the Department shall consider the
18 recommendations of the State Advisory Board on Juvenile Justice and Delinquency
19 Prevention. The Department shall submit a report ranking the State-funded programs to
20 the Governor and the General Assembly, on or before February 1 each year.

21 (f) Each programmatic, residential, and service contract or agreement entered into
22 by the Department shall include a cooperation clause for purposes of complying with the
23 Department's quality assurance requirements, cost-accounting requirements, recidivism
24 rates, and the program outcome evaluation programs.

25 **"§ 143B-514. Department of Juvenile Justice – functions and organization.**

26 (a) All authority, powers, duties, and functions, including statutory, records,
27 personnel, property, unexpended balances of appropriations, allocations or other funds,
28 including the functions of budgeting and purchasing, of the Division of Juvenile Services
29 of the Administrative Office of the Courts are transferred to and vested in the Department
30 of Juvenile Justice as if by a Type I Transfer as defined in G.S. 143A-6.

31 (b) All authority, powers, duties, and functions, including statutory, records,
32 personnel, property, unexpended balances of appropriations, allocations or other funds,
33 including the functions of budgeting and purchasing, of the Division of Youth Services of
34 the Department of Health and Human Services are transferred to and vested in the
35 Department of Juvenile Justice as if by a Type I Transfer as defined in G.S. 143A-6.

36 (c) All institutions previously operated by the Division of Youth Services of the
37 Department of Health and Human Services and the present central office of the Division
38 of Youth Services, including land, buildings, equipment, supplies, personnel, or other
39 properties rented or controlled for youth development purposes, shall be administered by
40 the Department of Juvenile Justice.

41 (d) All institutions previously operated by the Division of Juvenile Services of the
42 Administrative Office of the Courts and the present central office of the Division of
43 Juvenile Services, including land, buildings, equipment, supplies, personnel, or other

1 properties rented or controlled for youth development purposes, shall be administered by
2 the Department of Juvenile Justice.

3 **"§ 143B-515. Secretary of the Department of Juvenile Justice – powers and duties.**

4 (a) The head of the Department of Juvenile Justice is the Secretary of the
5 Department of Juvenile Justice. The Secretary shall have the powers and duties conferred
6 by this Chapter, delegated by the Governor, and conferred by the Constitution and laws
7 of this State. The Secretary shall be responsible for effectively and efficiently organizing
8 the Department of Juvenile Justice to promote the policy of the State as set forth in this
9 Article and to promote public safety and to prevent the commission of criminal offenses
10 by juveniles in accord with that policy.

11 (b) The Secretary shall have the following powers and duties:

12 (1) To develop a sound admission or intake program to youth services
13 institutions, including the requirement of a careful evaluation of the
14 needs of each child prior to acceptance and placement.

15 (2) To assure quality programs in youth services institutions or youth
16 services programs which shall be designed to meet the needs of children
17 in care or receiving services.

18 (3) To have all other powers of a secretary in relation to a division of youth
19 services or youth services institutions or youth services programs as
20 provided by the Executive Organization Act of 1973 as amended and
21 codified in Chapter 143B of the General Statutes or as provided by any
22 other appropriate State law.

23 (4) To adopt rules and regulations to implement the provisions of this
24 Article and the responsibilities of the Secretary and the Department of
25 Juvenile Justice under Chapter 7B of the General Statutes.

26 (5) To designate the appropriate unit of the Department of Juvenile Justice
27 to be responsible for coordination of State-level services in relation to
28 delinquency prevention and juvenile court services so that any citizen
29 may go to one place in State government to receive services or access to
30 services.

31 (6) To arrange appropriate coordination and planning within the child-
32 serving agencies of the Department of Juvenile Justice and promote
33 interdepartmental coordination.

34 (7) To assist local governments and private service agencies in the
35 development of juvenile court services and delinquency prevention, and
36 to provide information on the availability of potential funding sources
37 and whatever assistance may be requested in making application for
38 needed funding.

39 (8) To approve yearly program evaluations and to make recommendations
40 to the General Assembly concerning continuation funding that might be
41 supported by that evaluation.

1 (9) To approve program evaluation standards by which all programs
2 developed under the provisions of this Article may be objectively
3 evaluated.

4 Such standards as may be developed for the purpose of program
5 evaluation shall be in addition to any current standards as may be
6 applicable under the existing authority of the Social Services
7 Commission and the Department of Juvenile Justice.

8 Minimum operating standards, as well as program evaluation
9 standards, as may be needed for new program models designed to fulfill
10 the intent of this Article, may be developed at the discretion of the
11 Secretary either by the Social Services Commission or the Secretary.

12 (10) To develop a formula for funding on a matching basis for juvenile court
13 and delinquency prevention services as provided for in this Article. This
14 formula shall be based upon the county's or counties' relative ability to
15 fund community-based programs for juveniles.

16 Local governments receiving State matching funds for programs
17 under the provisions of this Article must maintain the same overall level
18 of effort that existed at the time of the filing of the county assessment of
19 youth needs with the Department.

20 (11) Assure that the Criminal Justice Information Network Governing Board
21 administer a comprehensive juvenile justice information system to
22 collect data and information about delinquent juveniles for the purpose
23 of developing treatment and intervention plans and allowing reliable
24 assessment and evaluation of the effectiveness of rehabilitative and
25 preventive services provided to delinquent juveniles.

26 (12) Establish substance abuse testing for juveniles adjudicated delinquent
27 for substance abuse offenses.

28 (c) Except as otherwise specifically provided in this Article and in Article 1 of this
29 Chapter, the functions, powers, duties, and obligations of every agency or division in the
30 Department of Juvenile Justice shall be prescribed by the Secretary of the Department of
31 Juvenile Justice.

32 (d) The Secretary may adopt rules and procedures for the implementation of this
33 section. The Secretary may adopt rules applicable to local human services agencies
34 providing juvenile court and delinquency prevention services for the purpose of program
35 evaluation, fiscal audits, and collection of third-party payments.

36 **"§ 143B-516. Secretary of the Department of Juvenile Justice requests for grants-in-**
37 **aid from non-State agencies.**

38 It is the intent of this General Assembly that non-State human services agencies
39 providing juvenile court and delinquency prevention programs submit their appropriation
40 requests for grants-in-aid through the Secretary of the Department of Juvenile Justice for
41 recommendations to the Governor, the Advisory Budget Commission, and the General
42 Assembly and that agencies receiving these grants, at the request of the Secretary of the

1 Department of Juvenile Justice, provide a postaudit of their operations that has been done
2 by a certified public accountant.

3 **"§ 143B-517. Department of Juvenile Justice – authority to contract with other**
4 **entities.**

5 (a) The Department of Juvenile Justice may contract with any governmental
6 agency, person, association, or corporation for the accomplishment of its duties and
7 responsibilities provided that the expenditure of funds pursuant to these contracts shall be
8 for the purposes for which the funds were appropriated and is not otherwise prohibited by
9 law.

10 (b) The Department may enter into contracts with and to act as intermediary
11 between any federal government agency and any county of this State for the purpose of
12 assisting the county to recover monies expended by a county-funded financial assistance
13 program; and, as a condition of assistance, the county shall agree to hold and save
14 harmless the Department against any claims, loss, or expense which the Department
15 might incur under the contracts by reason of any erroneous, unlawful, or tortious act or
16 omission of the county or its officials, agents, or employees.

17 **"§ 143B-518. Department of Juvenile Justice; authority to assist private nonprofit**
18 **foundations.**

19 The Secretary may allow employees of the Department or provide other appropriate
20 services to assist any private nonprofit foundation which works directly with services or
21 programs of the Department and whose sole purpose is to support the services and
22 programs of the Department. A Department employee shall be allowed to work with a
23 foundation no more than 20 hours in any one month. These services are not subject to the
24 provisions of Chapter 150B of the General Statutes.

25 The board of directors of each private, nonprofit foundation shall secure and pay for
26 the services of the State Auditor's Office or employ a certified public accountant to
27 conduct an annual audit of the financial accounts of the foundation. The board of
28 directors shall transmit to the Secretary of the Department of Juvenile Justice a copy of
29 the annual financial audit report of the private nonprofit foundation.

30 "Part 2. Juvenile Facilities.

31 **"§ 143B-520. Juvenile facilities.**

32 The Department of Juvenile Justice shall be responsible for administration of
33 statewide programs to implement the right of any committed juvenile to appropriate
34 treatment according to the juvenile's needs, including the following programs or services:
35 educational, clinical and psychological, psychiatric, social, medical, vocational,
36 recreational, and others as identified as appropriate by the Secretary.

37 **"§ 143B-521. Authority to provide necessary medical or surgical care.**

38 The Department may provide such medical and surgical treatment as is necessary to
39 preserve the life and health of students while in care, provided that no surgical operation
40 may be performed except as authorized in G.S. 148-22.2.

41 **"§ 143B-522. Compensation to children in care.**

42 Juveniles who have been committed to the Department may be compensated for work
43 or participation in training programs at rates approved by the Secretary within available

1 funds. The Department is authorized to accept grants or funds from any source to
2 compensate juveniles as provided under this section.

3 **"§ 143B-523. Criminal offense to aid escapes.**

4 It shall be unlawful for any person to aid, harbor, conceal, or assist any juvenile to
5 escape from an institution or youth services program. Any person who renders said
6 assistance to a juvenile shall be guilty of a Class 1 misdemeanor.

7 **"§ 143B-524. Visits and community activities.**

8 The Department shall encourage visits by parents, guardians, or custodians and
9 responsible relatives of juveniles in care. The Department shall also arrange a suitable
10 program of home visits for juveniles in care.

11 **"§ 143B-525. Regional detention services.**

12 The Department shall be responsible for juvenile detention services, including the
13 development of a statewide plan for regional juvenile detention services that will offer
14 juvenile detention care of sufficient quality to meet State standards to any juvenile
15 requiring juvenile detention care within the State in a detention facility as follows:

16 (1) The Department shall plan with the counties operating a county
17 detention facility to provide regional juvenile detention services to
18 surrounding counties, except that the Department shall have some
19 discretion in defining the geographical boundaries of the regions based
20 on negotiations with affected counties, distances, availability of juvenile
21 detention care that meets State standards, and other appropriate variable
22 factors.

23 (2) The Department shall plan for and administer five or more regional
24 detention homes, including careful planning on location, architectural
25 design, construction, and administration of a program to meet the needs
26 of juveniles in juvenile detention care. Both the physical facility and the
27 program of a regional detention home shall comply with State standards.

28 **"§ 143B-526. State subsidy to county detention facilities.**

29 The Department shall administer a State subsidy program to pay a county detention
30 facility which provides juvenile detention services and meets State standards a certain per
31 diem per juvenile. In general, this per diem should be fifty percent (50%) of the total cost
32 of caring for a juvenile from within the county and 100 percent (100%) of the total cost
33 of caring for a juvenile from another county. Any county placing a juvenile in a
34 detention home in another county shall pay fifty percent (50%) of the total cost of caring
35 for the child to the Department. The exact funding formulas may be varied by the
36 Department to operate within existing State appropriations or other funds that may be
37 available to pay for juvenile detention care.

38 **"§ 143B-527. Authority for implementation.**

39 In order to allow for effective implementation of a statewide regional approach to
40 juvenile detention, the Department shall have legal authority to do the following:

41 (1) To adopt rules that may be necessary to fulfill its responsibilities under
42 this Article;

- 1 (2) To plan with counties operating county detention homes to provide
2 regional services and to upgrade physical facilities as recommended in
3 said report, to contract with counties for services and care, and to pay
4 State subsidies to counties providing regional juvenile detention
5 services that meet State standards;
- 6 (3) To develop one or more pilot programs to demonstrate quality juvenile
7 detention care on a regional basis that meet State standards;
- 8 (4) To develop a plan whereby law enforcement officers or other
9 appropriate employees of local government shall be reimbursed by the
10 State for the costs of transportation of a juvenile to and from any
11 juvenile detention facility;
- 12 (5) To seek funding for juvenile detention services from federal sources,
13 and to accept gifts of funds from public or private sources; and
- 14 (6) To transfer State funds appropriated for institutions or other youth
15 services programs to develop a pilot program of juvenile detention care,
16 to purchase detention care in a county detention facility that meets State
17 standards, and to operate a detention facility.

18 "Part 3. Juvenile Court Services.

19 **"§ 143B-530. Juvenile court services.**

20 The Department of Juvenile Justice shall be responsible for administration of a
21 statewide and uniform system of juvenile probation and post-release supervision services
22 in all district court districts of the State. The Secretary shall be responsible for planning,
23 organizing, and administering juvenile probation and post-release supervision services on
24 a statewide basis to the end that juvenile services will be uniform throughout the State
25 and of sufficient quality to meet the needs of the children under supervision.

26 **"§ 143B-531. Duties and powers of Secretary.**

27 The Secretary shall have the following powers and duties as they relate to juvenile
28 court services:

- 29 (1) To plan for a statewide program of juvenile probation and post-release
30 supervision services.
- 31 (2) To appoint such personnel within the Department of Juvenile Justice as
32 may be necessary to administer a statewide and uniform system of
33 juvenile probation and post-release supervision.
- 34 (3) To appoint the chief court counselor in each district court district with
35 the approval of the chief district judge of that district.
- 36 (4) To study the various issues related to qualifications, salary ranges,
37 appointment of personnel on a merit basis, including chief court
38 counselors, court counselors, secretaries and other appropriate
39 personnel, at the State and district levels in order to adopt appropriate
40 policies and procedures governing personnel.
- 41 (5) To develop a statewide plan for staff development and training so that
42 chief court counselors, court counselors and other personnel responsible
43 for juvenile services may be appropriately trained and qualified; such

1 plan may include attendance at appropriate professional meetings and
2 opportunities for educational leave for academic study.

- 3 (6) To develop, promulgate, and enforce such policies, procedures, rules,
4 and regulations as the Secretary may find necessary and appropriate to
5 implement a statewide and uniform program of juvenile probation and
6 post-release supervision services.

7 **"§ 143B-532. Duties and powers of chief court counselors.**

8 The chief court counselor in each district court district appointed as provided by this
9 Article shall have the following powers and duties:

- 10 (1) To appoint such court counselors, secretaries, and other personnel as
11 may be authorized by the Department in accordance with the personnel
12 policies adopted by the Secretary.
13 (2) To supervise and direct the program of juvenile probation and post-
14 release supervision within the district court district under the
15 supervision of the court and the Secretary according to the statewide
16 practices and procedures promulgated by the Secretary.
17 (3) To provide in-service training for staff as required by the Secretary.
18 (4) To keep any records and make any reports requested by the Secretary in
19 order to provide statewide data and information about juvenile needs
20 and services.

21 **"§ 143B-533. Duties and powers of juvenile court counselors.**

22 All juvenile court counselors providing services to judges hearing juvenile cases shall
23 have the following powers and duties, as the court may require:

- 24 (1) To secure or arrange for such information concerning a case as the court
25 may require before, during, or after the hearing.
26 (2) To prepare written reports for the use of the court.
27 (3) To appear and testify at court hearings.
28 (4) To assume temporary custody of a juvenile when directed by court
29 order.
30 (5) To furnish each juvenile on probation and the juvenile's parents,
31 guardian, or custodian with a written statement of the juvenile's
32 conditions of probation, and to consult with the parents, guardian, or
33 custodian so that they may help the juvenile comply with the juvenile's
34 probation.
35 (6) To keep informed concerning the conduct and progress of any juvenile
36 on probation or under court supervision through home visits or
37 conferences with the parents, guardian, or custodian and in other ways.
38 (7) To see that the conditions of probation are complied with by the
39 juvenile, or to bring any juvenile who violates the juvenile's probation to
40 the attention of the court.
41 (8) To make periodic reports to the court concerning the adjustment of any
42 juvenile on probation or under court supervision.
43 (9) To keep such records of the juvenile's work as the court may require.

- 1 (10) To account for all funds collected from juveniles.
- 2 (11) To have all the powers of a peace officer in the district.
- 3 (12) To provide supervision for a juvenile transferred to the officer's
4 supervision from another court or another state, and to provide
5 supervision for any child released from an institution operated by the
6 Department of Correction when requested by the Department to do so.
- 7 (13) To assist in the development of post-release supervision and the
8 supervision of juveniles.
- 9 (14) To have such other duties as the court may direct.

10 "Part 4. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

11 "**§ 143B-540. Comprehensive Juvenile Delinquency and Substance Abuse Prevention**
12 **Plan.**

13 (a) The Department shall develop a comprehensive juvenile delinquency and
14 substance abuse prevention plan that will provide nonduplicative, collaborative,
15 cooperative, public/private, State/local juvenile delinquency and substance abuse
16 prevention programs to youth and their families. These collaborative programs shall be
17 interdisciplinary and multitiered, shall provide a continuum of services, and shall be
18 cooperatively and collaboratively administered at and accessible to community and local
19 levels. In administering the programs, communities and localities shall adhere to proven
20 effective principles. The Department shall ensure that localities are informed about best
21 practices in juvenile delinquency and substance abuse prevention.

22 (b) The Department shall ensure that any program provided through this plan
23 contains at least the following critical elements:

- 24 (1) An addressing of the highest priority problem areas and an identification
25 of the risk and protective factors to which youth in a particular
26 community are exposed;
- 27 (2) The strongest focus on populations exposed to a number of risk factors;
- 28 (3) An addressing of problem areas and an identification of strengths both
29 early in life and at appropriate developmental stages;
- 30 (4) An addressing of multiple risk factors in different settings such as
31 family, school, community, and peer group;
- 32 (5) An offering of comprehensive interventions across many systems that
33 deal simultaneously with many aspects of a youth's life;
- 34 (6) An intensive involvement of multiple contacts weekly or even daily
35 with at-risk youth;
- 36 (7) An operation that is strength-based rather than deficiency-based, that
37 builds on a youth's strengths rather than on deficiencies;
- 38 (8) A holistic approach to youth within the context of their relationships to
39 and with others rather than focusing solely on the youth; and
- 40 (9) An incorporation of community participation and ethnic and cultural
41 diversity into the development and evaluation of services.

1 (c) The Department shall ensure that the plan contain at least the following
2 programs, which have proven effective in preventing juvenile delinquency and substance
3 abuse and which should be available as basic services in communities:

4 (1) Early intervention;

5 (2) In-home and community-based family counseling and parent training;

6 (3) Adolescent and family substance abuse prevention services, including
7 alcohol abuse prevention services and including substance abuse
8 education;

9 (4) Nonschool hours activities, both before and after school hours;

10 (5) Law-related education and life/social skills training programs;

11 (6) Conflict resolution, problem solving, and anger management; and

12 (7) Personal advocacy, including mentoring relationships, tutors, or other
13 caring adult programs.

14 (d) Prior to the implementation of any plan and program development prescribed
15 in this section, the Department shall report to the General Assembly in detail on its plan
16 to implement this section, including detailed descriptions of the plan and programs
17 contemplated. The report shall also provide a detailed cost analysis of this section's
18 implementation.

19 (e) The Department shall cooperate with all other affected State agencies and
20 entities in implementing this section.

21 "Part 5. Juvenile Crime Prevention Councils.

22 **"§ 143B-550. Juvenile Crime Prevention Councils; legislative intent.**

23 (a) It is the intent of the General Assembly both to reduce the number of juveniles
24 committed by the courts for delinquency to institutions operated by the Department of
25 Juvenile Justice or other State agencies and to prevent juveniles who are at risk from
26 becoming delinquent. The primary intent of this Article is to provide an ongoing,
27 comprehensive State/local, public/private, cooperative, collaborative partnership to
28 develop both streamlined and enhanced community-based alternatives to training school
29 and detention commitment and unified, nonduplicative, coordinated, and collaborative
30 community-based prevention strategies and programs. Additionally, it is the intent of the
31 General Assembly to provide noninstitutional dispositional alternatives that will protect
32 the community and the juvenile.

33 (b) The Juvenile Crime Prevention Councils shall prioritize funding for
34 dispositions of court-adjudicated youth pursuant to minimum standards adopted by the
35 Department.

36 (c) The Department shall ensure that juvenile court services and delinquency
37 prevention programs are developed by a State/local, private/public, cooperative and
38 collaborative partnership that avoids overlapping and duplication and that optimizes and
39 evaluates all programs and services on an ongoing basis. The programs developed under
40 this partnership shall fulfill the following organizational and objective requirements:

41 (1) These programs shall be planned and organized at the community level,
42 and developed in partnership with the State. These planning efforts shall
43 include appropriate representation from local government, local public

1 and private agencies serving families and children, local business
2 leaders, citizens with an interest in youth problems, youth
3 representatives, and others as may be appropriate in a particular
4 community. The planning bodies at the local level shall be the Juvenile
5 Crime Prevention Councils.

6 (2) At the State level, the Department shall:

- 7 a. Serve the community level as a clearinghouse for information on
8 delinquency prevention strategies and on alternatives to
9 commitment. The Department shall research, collect, and
10 distribute information to local agencies about best practices, what
11 works, what is promising, and what does not work;
12 b. Provide technical assistance to Juvenile Crime Prevention
13 Councils;
14 c. Make recommendations to State and local governments on
15 changes to laws, rules, or policies that will reduce the incidence
16 of delinquency and the incidence of inappropriate commitment;
17 d. Develop a comprehensive structure for follow-up and delivery of
18 program and treatment services to ensure juvenile, adult, and
19 system accountability;
20 e. Coordinate statewide media campaigns that accurately inform
21 people about the development of strategies to prevent
22 delinquency; and
23 f. Channel existing delinquency prevention funding streams to the
24 community level until a permanent funding stream for
25 delinquency prevention is established.

26 (3) At the local level, as a prerequisite for receiving funding for juvenile
27 court service and delinquency prevention programs, the board of county
28 commissioners of each county shall appoint a Juvenile Crime
29 Prevention Council. The Juvenile Crime Prevention Council shall
30 consist of not more than 25 members and should include, if possible, the
31 following:

- 32 a. The local school superintendent, or that person's designee;
33 b. A chief of police in the county;
34 c. The local sheriff, or that person's designee;
35 d. The district attorney, or that person's designee;
36 e. The chief court counselor, or that person's designee;
37 f. The Director of the Area Mental Health Authority, or that
38 person's designee;
39 g. The director of the local department of social services, or that
40 person's designee;
41 h. The county manager, or that person's designee;
42 i. A substance abuse professional;
43 j. A member of the faith community;

- 1 k. A county commissioner;
2 l. A youth representative;
3 m. A juvenile defense attorney;
4 n. A district court judge;
5 o. A member of the business community;
6 p. A public health professional;
7 q. A representative from the United Way or other nonprofit agency;
8 and
9 r. Up to six members of the public to be appointed by the county
10 board of commissioners.

11 The county shall modify the Council's membership as necessary to
12 ensure that current Council members reflect the racial and
13 socioeconomic diversity of the community and to minimize potential
14 conflicts of interest by members.

- 15 (4) The Council shall annually review the needs of troubled juveniles, both
16 those at risk of delinquency and those adjudicated delinquent, within the
17 county and the assets and resources that are available to address the
18 needs of those juveniles. The Council shall use a public/private,
19 nonduplicative, collaborative, coordinated, multifaceted, and
20 multidisciplinary approach to this review, and to the utilization of any
21 existing programs as well as to the development of any new programs
22 and services. In particular, the Council shall review the existing
23 resources that can be expanded to provide prevention programs and
24 services. The Council shall include the faith-based community as a vital
25 part of this approach. The Council shall develop and advertise a
26 Request for Proposal process, and submit a written Plan of Action for
27 the expenditure of juvenile sanction and prevention funds to the county
28 for its approval. Upon the county's authorization, the Plan shall be
29 submitted to the Department for final approval and subsequent
30 implementation.

31 In addition to its annual review, the Council shall perform the
32 following functions on an ongoing basis:

- 33 a. Conduct an ongoing updated community needs assessment in
34 order to identify resources and needs and develop appropriate
35 solutions to meet these needs;
36 b. Perform rigorous and ongoing performance evaluations of
37 prevention and alternatives programs and services. The Council
38 shall require each prevention initiative and each alternatives
39 initiative to have a strong evaluation component and the Council
40 shall make this accountability responsibility a condition of each
41 initiative's continued funding;
42 c. Increase public awareness of the causes of delinquency and of
43 strategies to reduce the problem;

- 1 d. Develop strategies to intervene and appropriately respond to and
2 treat the needs of juveniles at risk of delinquency or of juveniles
3 requiring alternatives to commitment as these needs are
4 identified through appropriate risk assessment instruments;
5 e. Provide services to juveniles who are in need of treatment,
6 counseling, or rehabilitation and to the families of those
7 juveniles, including court-ordered parenting responsibility
8 classes; and
9 f. Plan for the establishment of a permanent funding stream for
10 delinquency prevention.
- 11 (5) To meet the programming needs of delinquent and at-risk youth in
12 smaller, rural counties, Juvenile Crime Prevention Councils shall
13 examine the benefits of joint program development between counties
14 within the same judicial district. If two or more counties determine that
15 a multicounty initiative would be beneficial, they may establish a
16 multicounty Juvenile Crime Prevention Council, with the membership
17 consisting of the members from each county represented.
- 18 (6) The Secretary shall develop a funding mechanism for programs that
19 meet the standards as developed under the provisions of this Part. The
20 Secretary shall ensure that the guidelines for the State/local partnership's
21 funding process include the following requirements:
- 22 a. Fund what works. – Programs and projects that demonstrate
23 progress, that have been proven to be effective, or that show
24 promise, based on valid research should be supported. The
25 partnership shall fund projects based on a 'menu' of types of
26 services. In addition, new innovative projects shall be rigorously
27 evaluated to determine their effectiveness in preventing
28 delinquency and recidivism and their proximal risk factors and
29 may be funded on a discretionary basis. The merits of a program
30 shall be determined on the basis of known or reasonably
31 projected outcomes. Bad practices, poor outcomes, and programs
32 that have proven to be ineffective shall not be funded;
- 33 b. The money should follow the juvenile. – The funding process
34 shall be designed in such a way that, whenever a juvenile is being
35 served by a program, funds are allocated to that program for that
36 juvenile and will follow that juvenile. For example, if a juvenile
37 is receiving delinquency prevention services and is subsequently
38 adjudicated delinquent and committed to training school, the
39 county shall continue to fund the services for the juvenile, if still
40 appropriate to reduce the recidivism risk, and shall send the
41 program dollars to the training school;
- 42 c. Use a formula for the distribution of funds. – A funding formula
43 shall be developed that ensures that even the smallest counties

1 will be able to provide the basic prevention and alternatives
2 services to juveniles in their communities;

3 d. Allow and encourage local flexibility. – A vital component of the
4 State/local partnership established by this section is local
5 flexibility to determine how best to allocate prevention and
6 alternatives funds; and

7 e. Combine resources. – Counties shall be allowed and encouraged
8 to combine resources and services.

9 The Secretary shall adopt rules to implement the policy and intent summarized in this
10 section.

11 **"§ 143B-551. Purchase of care or services from programs meeting State standards.**

12 The Department of Juvenile Justice and any other appropriate State or local agency
13 may purchase care or services from public or private agencies providing delinquency
14 prevention programs or juvenile court services, including parenting responsibility classes.
15 The programs shall meet the State standards as authorized by G.S. 143B-550. As
16 institutional populations are reduced, the Department of Juvenile Justice may divert State
17 funds appropriated for institutional programs to purchase the services pursuant to the
18 provisions of the Executive Budget Act.

19 The Secretary of Juvenile Justice shall prepare an annual report on the effectiveness
20 and cost-benefit of the Department's programs, which shall include the most current
21 institutional populations of juveniles being served by the various departments of State
22 government which shall include comparative costs of all child-serving agencies. Such
23 report shall be submitted to the Governor, the General Assembly, and the various State
24 departments providing services to juveniles.

25 "Part 6. State Advisory Council on Juvenile Justice and Delinquency Prevention.

26 **"§ 143B-560. Findings.**

27 The General Assembly finds that juveniles who come within the jurisdiction of
28 juvenile court also receive services from a variety of other State agencies, including the
29 Department of Public Instruction, the Division of Social Services, the Department of
30 Administration, the Division of Child and Family Services, and the Division of Mental
31 Health, Developmental Disabilities, and Substance Abuse Services. No oversight body
32 exists to review the operation of the juvenile justice system and its ancillary components
33 as a single entity and to ensure that State agencies work together in a comprehensive and
34 effective way.

35 **"§ 143B-561. Creation of Council; purpose; members; duties.**

36 (a) Creation. – There is created the State Advisory Council on Juvenile Justice and
37 Delinquency Prevention. The Council shall be located within the Office of the Governor
38 for organizational, budgetary, and administrative purposes.

39 (b) Purpose. – The purpose of the Council is to advise all State agencies providing
40 services and supervision to court-adjudicated youth regarding the coordination of services
41 to juveniles.

42 (c) Membership. – The Council shall consist of 19 members as follows:

- 1 (1) Four persons appointed by the Governor, one of whom is a private
2 citizen who has demonstrated an interest and commitment to youth and
3 juvenile justice issues.
- 4 (2) Four persons appointed by the Chief Justice of the Supreme Court.
- 5 (3) The following persons, or their designees, ex officio:
- 6 a. The Governor.
- 7 b. The Chief Justice of the Supreme Court.
- 8 c. The President Pro Tempore of the Senate.
- 9 d. The Speaker of the House of Representatives.
- 10 e. The Director of the Administrative Office of the Courts.
- 11 f. The Superintendent of Public Instruction.
- 12 g. The Secretary of the Department of Administration.
- 13 h. The Secretary of the Department of Health and Human Services.
- 14 i. The Secretary of the Department of Correction.
- 15 j. The Secretary of the Department of Crime Control and Public
16 Safety.
- 17 k. The Secretary of the Department of Juvenile Justice.
- 18 (d) Terms. – Members shall serve for two-year terms, with no prohibition against
19 being reappointed, except initial appointments shall be for terms as follows:
- 20 (1) The Governor shall initially appoint two members for a term of two
21 years and two members for a term of three years.
- 22 (2) The Chief Justice of the Supreme Court shall initially appoint two
23 members for a term of two years and two members for a term of three
24 years.
- 25 (e) Chair. – The Governor and Chief Justice of the Supreme Court shall serve as
26 cochairs of the Council.
- 27 (f) Vacancies. – A vacancy on the Council resulting from the resignation of a
28 member or otherwise shall be filled in the same manner in which the original
29 appointment was made and the term shall be for the balance of the unexpired term.
- 30 (g) Compensation. – The Council members shall receive no salary as a result of
31 serving on the Council but shall receive per diem, subsistence, and travel expenses in
32 accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.
- 33 (h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if
34 that section applied to this Article.
- 35 (i) Meetings. – The chair shall convene the Council. Meetings shall be held as
36 often as necessary, but not less than four times a year.
- 37 (j) Quorum. – A majority of the members of the Council shall constitute a quorum
38 for the transaction of business. The affirmative vote of a majority of the members present
39 at meetings of the Council shall be necessary for action to be taken by the Council.
- 40 **§ 143B-562. Powers and duties of the Council.**
- 41 The Council shall have the following powers and duties:
- 42 (1) Advise the Department of Juvenile Justice in the review of the State's
43 juvenile justice planning, the development of the community juvenile

- 1 justice councils, and the development of a formula for the distribution of
 2 funds to community juvenile service boards.
 3 (2) Advise all State agencies serving juveniles for the purpose of
 4 developing a consistent philosophy with regard to providing services to
 5 youth and promoting collaboration and the efficient and effective
 6 delivery of services to youth and families through State, local, and
 7 district programs and fully address problems of collaboration across
 8 State agencies with the goal of serving youth.
 9 (3) Review and comment on juvenile justice, delinquency prevention, and
 10 juvenile services grant applications prepared for submission under any
 11 federal grant program by any governmental entity of the State.
 12 (4) Review the juvenile justice system's operation and prioritization of
 13 funding needs.
 14 (5) Review the progress and accomplishment of State and local juvenile
 15 justice, delinquency prevention, and juvenile services projects.
 16 (6) Develop recommendations concerning the establishment of priorities
 17 and needed improvements with respect to juvenile justice, delinquency
 18 prevention, and juvenile services and report its recommendations to the
 19 General Assembly on or before March 1 each year.
 20 (7) Review and comment on the proposed budget for the Department of
 21 Juvenile Justice."

22 Section 2. (a) G.S. 7A-343.1 reads as rewritten:

23 **"§ 7A-343.1. Distribution of copies of the appellate division reports.**

24 The Administrative Officer of the Courts shall, at the State's expense distribute such
 25 number of copies of the appellate division reports to federal, State departments and
 26 agencies, and to educational institutions of instruction, as follows:

28	Governor, Office of the	1
29	Lieutenant Governor, Office of the	1
30	Secretary of State, Department of the	2
31	State Auditor, Department of the	1
32	Treasurer, Department of the State	1
33	Superintendent of Public Instruction	1
34	Office of the Attorney General	11
35	State Bureau of Investigation	1
36	Agriculture and Consumer Services, Department of	1
37	Labor, Department of	1
38	Insurance, Department of	1
39	Budget Bureau, Department of Administration	1
40	Property Control, Department of Administration	1
41	State Planning, Department of Administration	1
42	Environment and Natural Resources, Department of	1
43	Revenue, Department of	1

1	Health and Human Services, Department of	1
2	<u>Juvenile Justice, Department of</u>	<u>1</u>
3	Commission for the Blind	1
4	Transportation, Department of	1
5	Motor Vehicles, Division of	1
6	Utilities Commission	8
7	Industrial Commission	11
8	State Personnel Commission	1
9	Office of State Personnel	1
10	Office of Administrative Hearings	2
11	Community Colleges, Department of	38
12	Employment Security Commission	1
13	Commission of Correction	1
14	Parole Commission	1
15	Archives and History, Division of	1
16	Crime Control and Public Safety, Department of	2
17	Cultural Resources, Department of	3
18	Legislative Building Library	2
19	Justices of the Supreme Court	1 ea.
20	Judges of the Court of Appeals	1 ea.
21	Judges of the Superior Court	1 ea.
22	Clerks of the Superior Court	1 ea.
23	District Attorneys	1 ea.
24	Emergency and Special Judges of the Superior Court	1 ea.
25	Supreme Court Library	AS MANY AS REQUESTED
26	Appellate Division Reporter	1
27	University of North Carolina, Chapel Hill	71
28	University of North Carolina, Charlotte	1
29	University of North Carolina, Greensboro	1
30	University of North Carolina, Asheville	1
31	North Carolina State University, Raleigh	1
32	Appalachian State University	1
33	East Carolina University	1
34	Fayetteville State University	1
35	North Carolina Central University	17
36	Western Carolina University	1
37	Duke University	17
38	Davidson College	2
39	Wake Forest University	25
40	Lenoir Rhyne College	1
41	Elon College	1
42	Campbell University	25
43	Federal, Out-of-State and Foreign Secretary of State	1

1	Secretary of Defense	1
2	Secretary of Health, Education and Welfare	1
3	Secretary of Housing and Urban Development	1
4	Secretary of Transportation	1
5	Attorney General	1
6	Department of Justice	1
7	Internal Revenue Service	1
8	Veterans' Administration	1
9	Library of Congress	5
10	Federal Judges resident in North Carolina	1 ea.
11	Marshal of the United States Supreme Court	1
12	Federal District Attorneys resident in North Carolina	1 ea.
13	Federal Clerks of Court resident in North Carolina	1 ea.
14	Supreme Court Library exchange list	1

15
 16 Each justice of the Supreme Court and judge of the Court of Appeals shall receive for
 17 ~~his~~ private use, one complete and up-to-date set of the appellate division reports. The
 18 copies of reports furnished each justice or judge as set out in the table above may be
 19 retained ~~by him~~ personally to enable ~~him~~ the justice or judge to keep up-to-date ~~his~~ the
 20 personal set of reports."

21 (b) G.S. 14-316.1 reads as rewritten:

22 **"§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

23 Any person who is at least 16 years old who knowingly or willfully causes,
 24 encourages, or aids any juvenile within the jurisdiction of the court to be in a place or
 25 condition, or to commit an act whereby the juvenile could be adjudicated delinquent,
 26 undisciplined, abused, or neglected as defined by ~~G.S. 7A-517~~ G.S. 7B-101 and G.S. 7B-
 27 1501 shall be guilty of a Class 1 misdemeanor.

28 It is not necessary for the district court exercising juvenile jurisdiction to make an
 29 adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order
 30 to prosecute a parent or any person, including an employee of the Department of ~~Health~~
 31 ~~and Human Services~~ Juvenile Justice under this section. An adjudication that a juvenile is
 32 delinquent, undisciplined, abused, or neglected shall not preclude a subsequent
 33 prosecution of a parent or any other person including an employee of the ~~Division of~~
 34 ~~Youth Services~~ Department of Juvenile Justice, who contributes to the delinquent,
 35 undisciplined, abused, or neglected condition of any juvenile."

36 (c) G.S. 17C-3 reads as rewritten:

37 **"§ 17C-3. North Carolina Criminal Justice Education and Training Standards**
 38 **Commission established; members; terms; vacancies.**

39 (a) There is established the North Carolina Criminal Justice Education and
 40 Training Standards Commission, hereinafter called "the Commission," in the Department
 41 of Justice. The Commission shall be composed of 26 members as follows:

- 1 (1) Police Chiefs. – Three police chiefs selected by the North Carolina
2 Association of Chiefs of Police and one police chief appointed by the
3 Governor.
- 4 (2) Police Officers. – Three police officials appointed by the North Carolina
5 Police Executives Association and two criminal justice officers certified
6 by the Commission as selected by the North Carolina Law-Enforcement
7 Officers' Association.
- 8 (3) Departments. – The Attorney General of the State of North Carolina; the
9 Secretary of the Department of Crime Control and Public Safety; the
10 Secretary of the Department of ~~Health and Human Services~~; Juvenile
11 Justice; the Secretary of the Department of Correction; the President of
12 the Department of Community Colleges.
- 13 (4) At-large Groups. – One individual representing and appointed by each
14 of the following organizations: one mayor selected by the League of
15 Municipalities; one law-enforcement training officer selected by the
16 North Carolina Law-Enforcement Training Officers' Association; one
17 criminal justice professional selected by the North Carolina Criminal
18 Justice Association; one sworn law-enforcement officer selected by the
19 North State Law-Enforcement Officers' Association; one member
20 selected by the North Carolina Law-Enforcement Women's Association;
21 and one District Attorney selected by the North Carolina Association of
22 District Attorneys.
- 23 (5) Citizens and Others. – The President of The University of North
24 Carolina; the Director of the Institute of Government; and two citizens,
25 one of whom shall be selected by the Governor and one of whom shall
26 be selected by the Attorney General. The General Assembly shall
27 appoint two persons, one upon the recommendation of the Speaker of
28 the House of Representatives and one upon the recommendation of the
29 President Pro Tempore of the Senate. Appointments by the General
30 Assembly shall be made in accordance with G.S. 120-122.
31 Appointments by the General Assembly shall serve two-year terms to
32 conclude on June 30th in odd-numbered years.

33 (b) The members shall be appointed for staggered terms. The initial appointments
34 shall be made prior to September 1, 1983, and the appointees shall hold office until July 1
35 of the year in which their respective terms expire and until their successors are appointed
36 and qualified as provided hereafter:

37 For the terms of one year: one member from subdivision (1) of subsection (a), serving
38 as a police chief; three members from subdivision (2) of subsection (a), one serving as a
39 police official, and two criminal justice officers; one member from subdivision (4) of
40 subsection (a), appointed by the North Carolina Law-Enforcement Training Officers'
41 Association; and two members from subdivision (5) of subsection (a), one appointed by
42 the Governor and one appointed by the Attorney General.

1 For the terms of two years: one member from subdivision (1) of subsection (a),
 2 serving as a police chief; one member from subdivision (2) of subsection (a), serving as a
 3 police official; and two members from subdivision (4) of subsection (a), one appointed by
 4 the League of Municipalities and one appointed by the North Carolina Association of
 5 District Attorneys.

6 For the terms of three years: two members from subdivision (1) of subsection (a), one
 7 police chief appointed by the North Carolina Association of Chiefs of Police and one
 8 police chief appointed by the Governor; one member from subdivision (2) of subsection
 9 (a), serving as a police official; and three members from subdivision (4) of subsection (a),
 10 one appointed by the North Carolina Law-Enforcement Women's Association, one
 11 appointed by the North Carolina Criminal Justice Association, and one appointed by the
 12 North State Law-Enforcement Officers' Association.

13 Thereafter, as the term of each member expires, his successor shall be appointed for a
 14 term of three years. Notwithstanding the appointments for a term of years, each member
 15 shall serve at the will of the appointing authority.

16 The Attorney General, the Secretary of the Department of Crime Control and Public
 17 Safety, the Secretary of the Department of ~~Health and Human Services, Juvenile Justice,~~
 18 the Secretary of the Department of Correction, the President of The University of North
 19 Carolina, the Director of the Institute of Government, and the President of the
 20 Department of Community Colleges shall be continuing members of the Commission
 21 during their tenure. These members of the Commission shall serve ex officio and shall
 22 perform their duties on the Commission in addition to the other duties of their offices.
 23 The ex officio members may elect to serve personally at any or all meetings of the
 24 Commission or may designate, in writing, one member of their respective office,
 25 department, university or agency to represent and vote for them on the Commission at all
 26 meetings the ex officio members are unable to attend.

27 Vacancies in the Commission occurring for any reason shall be filled, for the
 28 unexpired term, by the authority making the original appointment of the person causing
 29 the vacancy. A vacancy may be created by removal of a Commission member by
 30 majority vote of the Commission for misconduct, incompetence, or neglect of duty. A
 31 Commission member may be removed only pursuant to a hearing, after notice, at which
 32 the member subject to removal has an opportunity to be heard."

33 (d) G.S. 20-79.5(a) reads as rewritten:

34 "(a) Plates. – The State government officials listed in this section are eligible for a
 35 special registration plate under G.S. 20-79.4. The plate shall bear the number designated
 36 in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representative	3
President Pro Tempore of the Senate	4
Secretary of State	5

1	State Auditor	6
2	State Treasurer	7
3	Superintendent of Public Instruction	8
4	Attorney General	9
5	Commissioner of Agriculture	10
6	Commissioner of Labor	11
7	Commissioner of Insurance	12
8	Speaker Pro Tempore of the House	13
9	Legislative Services Officer	14
10	Secretary of Administration	15
11	Secretary of Environment and Natural Resources	16
12	Secretary of Revenue	17
13	Secretary of Health and Human Services	18
14	Secretary of Commerce	19
15	Secretary of Correction	20
16	Secretary of Cultural Resources	21
17	Secretary of Crime Control and Public Safety	22
18	<u>Secretary of Juvenile Justice</u>	<u>23</u>
19	Governor's Staff	<u>23-29-24-29</u>
20	State Budget Officer	30
21	State Personnel Director	31
22	Advisory Budget Commission Nonlegislative Member	32-41
23	Chair of the State Board of Education	42
24	President of the U.N.C. System	43
25	Alcoholic Beverage Control Commission	44-46
26	Assistant Commissioners of Agriculture	47-48
27	Deputy Secretary of State	49
28	Deputy State Treasurer	50
29	Assistant State Treasurer	51
30	Deputy Commissioner for the Department of Labor	52
31	Chief Deputy for the Department of Insurance	53
32	Assistant Commissioner of Insurance	54
33	Deputies and Assistant to the Attorney General	55-65
34	Board of Economic Development Nonlegislative Member	66-88
35	State Ports Authority Nonlegislative Member	89-96
36	Utilities Commission Member	97-104
37	Post-Release Supervision and	
38	Parole Commission Member	105-109
39	State Board Member, Commission Member,	
40	or State Employee Not Named in List	110-200".
41	(e) G.S. 66-58(b) reads as rewritten:	
42	"(b) The provisions of subsection (a) of this section shall not apply to:	
43	(1) Counties and municipalities.	

- 1 (2) The Department of Health and Human Services or the Department of
2 Agriculture and Consumer Services for the sale of serums, vaccines, and
3 other like products.
- 4 (3) The Department of Administration, except that the agency shall not
5 exceed the authority granted in the act creating the agency.
- 6 (4) The State hospitals for the mentally ill.
- 7 (5) The Department of Health and Human Services.
- 8 (6) The North Carolina School for the Blind at Raleigh.
- 9 (6a) The Department of Juvenile Justice.
- 10 (7) The North Carolina Schools for the Deaf.
- 11 (8) The Greater University of North Carolina with regard to its utilities and
12 other services now operated by it nor to the sale of articles produced
13 incident to the operation of instructional departments, articles incident
14 to educational research, articles of merchandise incident to classroom
15 work, meals, books, or to articles of merchandise not exceeding twenty-
16 five cents (25¢) in value when sold to members of the educational staff
17 or staff auxiliary to education or to duly enrolled students or
18 occasionally to immediate members of the families of members of the
19 educational staff or of duly enrolled students nor to the sale of meals or
20 merchandise to persons attending meetings or conventions as invited
21 guests nor to the operation by the University of North Carolina of an inn
22 or hotel and dining and other facilities usually connected with a hotel or
23 inn, nor to the hospital and Medical School of the University of North
24 Carolina, nor to the Coliseum of North Carolina State University at
25 Raleigh, and the other schools and colleges for higher education
26 maintained or supported by the State, nor to the Centennial Campus of
27 North Carolina State University at Raleigh, nor to the comprehensive
28 student health services or the comprehensive student infirmaries
29 maintained by the constituent institutions of the University of North
30 Carolina.
- 31 (9) The Department of Environment and Natural Resources, except that the
32 Department shall not construct, maintain, operate or lease a hotel or
33 tourist inn in any park over which it has jurisdiction. The North
34 Carolina Wildlife Resources Commission may sell wildlife memorabilia
35 as a service to members of the public interested in wildlife conservation.
- 36 (10) Child-caring institutions or orphanages receiving State aid.
- 37 (11) Highlands School in Macon County.
- 38 (12) The North Carolina State Fair.
- 39 (13) Rural electric memberships corporations.
- 40 (13a) State Farm Operations Commission.
- 41 (13b) The Department of Agriculture and Consumer Services with regard to
42 its lessees at farmers' markets operated by the Department.
- 43 (13c) The Western North Carolina Agricultural Center.

1 (14) Nothing herein contained shall be construed to prohibit the engagement
2 in any of the activities described in subsection (a) hereof by a firm,
3 corporation or person who or which is a lessee of space only of the State
4 of North Carolina or any of its departments or agencies; provided the
5 leases shall be awarded by the Department of Administration to the
6 highest bidder, as provided by law in the case of State contracts and
7 which lease shall be for a term of not less than one year and not more
8 than five years.

9 (15) The State Department of Correction is authorized to purchase and install
10 automobile license tag plant equipment for the purpose of
11 manufacturing license tags for the State and local governments and for
12 such other purposes as the Department may direct.

13 The Commissioner of Motor Vehicles, or such other authority as
14 may exercise the authority to purchase automobile license tags is hereby
15 directed to purchase from, and to contract with, the State Department of
16 Correction for the State automobile license tag requirements from year
17 to year.

18 The price to be paid to the State Department of Correction for the
19 tags shall be fixed and agreed upon by the Governor, the State
20 Department of Correction, and the Motor Vehicle Commissioner, or
21 such authority as may be authorized to purchase the supplies.

22 (16) Laundry services performed by the Department of Correction may be
23 provided only for agencies and instrumentalities of the State which are
24 supported by State funds and for county or municipally controlled and
25 supported hospitals presently being served by the Department of
26 Correction, or for which services have been contracted or applied for in
27 writing, as of May 22, 1973. In addition to the prior sentence, laundry
28 services performed by the Department of Correction may be provided
29 for the Governor Morehead School and the North Carolina School for
30 the Deaf.

31 The services shall be limited to wet-washing, drying and ironing of
32 flatwear or flat goods such as towels, sheets and bedding, linens and
33 those uniforms prescribed for wear by the institutions and further
34 limited to only flat goods or apparel owned, distributed or controlled
35 entirely by the institutions and shall not include processing by any dry-
36 cleaning methods; provided, however, those garments and items
37 presently being serviced by wet-washing, drying and ironing may in the
38 future, at the election of the Department of Correction, be processed by
39 a dry-cleaning method.

40 (17) The North Carolina Global TransPark Authority or a lessee of the
41 Authority.

42 (18) The activities and products of private enterprise carried on or
43 manufactured within a State prison facility pursuant to G.S. 148-70."

- 1 (f) G.S. 66-58(c) reads as rewritten:
2 "(c) The provisions of subsection (a) shall not prohibit:
3 (1) The sale of products of experiment stations or test farms.
4 (2) The sale of learned journals, works of art, books or publications of the
5 Department of Cultural Resources or other agencies, or the Supreme
6 Court Reports or Session Laws of the General Assembly.
7 (3) The business operation of endowment funds established for the purpose
8 of producing income for educational purposes; for purposes of this
9 section, the phrase "operation of endowment funds" shall include the
10 operation by public postsecondary educational institutions of campus
11 stores, the profits from which are used exclusively for awarding
12 scholarships to defray the expenses of students attending the institution;
13 provided, that the operation of the stores must be approved by the board
14 of trustees of the institution, and the merchandise sold shall be limited
15 to educational materials and supplies, gift items and miscellaneous
16 personal-use articles. Provided further that sales at campus stores are
17 limited to employees of the institution and members of their immediate
18 families, to duly enrolled students of the campus at which a campus
19 store is located and their immediate families, to duly enrolled students
20 of other campuses of the University of North Carolina other than the
21 campus at which the campus store is located, to other campus stores and
22 to other persons who are on campus other than for the purpose of
23 purchasing merchandise from campus stores. It is the intent of this
24 subdivision that campus stores be established and operated for the
25 purpose of assuring the availability of merchandise described in this
26 Article for sale to persons enumerated herein and not for the purpose of
27 competing with stores operated in the communities surrounding the
28 campuses of the University of North Carolina.
29 (4) The operation of lunch counters by the Department of Health and
30 Human Services as blind enterprises of the type operated on January 1,
31 1951, in State buildings in the City of Raleigh.
32 (5) The operation of a snack bar and cafeteria in the State Legislative
33 Building.
34 (6) The maintenance by the prison system authorities of eating and sleeping
35 facilities at units of the State prison system for prisoners and for
36 members of the prison staff while on duty, or the maintenance by the
37 highway system authorities of eating and sleeping facilities for working
38 crews on highway construction or maintenance when actually engaged
39 in such work on parts of the highway system.
40 (7) The operation by penal, correctional or facilities operated by the
41 Department of Health and Human ~~Services~~ Services, the Department of
42 Juvenile Justice, or by the Department of Agriculture and Consumer
43 Services, of dining rooms for the inmates or clients or members of the

- 1 staff while on duty and for the accommodation of persons visiting the
2 inmates or clients, and other bona fide visitors.
- 3 (8) The sale by the Department of Agriculture and Consumer Services of
4 livestock, poultry and publications in keeping with its present livestock
5 and farm program.
- 6 (9) The operation by the public schools of school cafeterias.
- 7 (9a) The use of a public school bus or public school activity bus for a
8 purpose allowed under G.S. 115C-242 or the use of a public school
9 activity bus for a purpose authorized by G.S. 115C-247.
- 10 (10) Sale by any State correctional or other institution of farm, dairy,
11 livestock or poultry products raised or produced by it in its normal
12 operations as authorized by the act creating it.
- 13 (11) The sale of textbooks, library books, forms, bulletins, and instructional
14 supplies by the State Board of Education, State Department of Public
15 Instruction, and local school authorities.
- 16 (12) The sale of North Carolina flags by or through the auspices of the
17 Department of Administration, to the citizens of North Carolina.
- 18 (13) The operation by the Department of Correction of forestry management
19 programs on State-owned lands, including the sale on the open market
20 of timber cut as a part of the management program.
- 21 (14) The operation by the Department of Correction of facilities to
22 manufacture and produce traffic and street name signs for use on the
23 public streets and highways of the State.
- 24 (15) The operation by the Department of Correction of facilities to
25 manufacture and produce paint for use on the public streets and
26 highways of the State.
- 27 (16) The performance by the Department of Transportation of dredging
28 services for a unit of local government.
- 29 (17) The sale by the State Board of Elections to political committees and
30 candidate committees of computer software designed by or for the State
31 Board of Elections to provide a uniform system of electronic filing of
32 the campaign finance reports required by Article 22A of Chapter 163 of
33 the General Statutes and to facilitate the State Board's monitoring of
34 compliance with that Article. This computer software for electronic
35 filing of campaign finance reports shall not exceed a cost of one
36 hundred dollars (\$100.00) to any political committee or candidate
37 committee without the State Board of Elections first notifying in writing
38 the Joint Legislative Commission on Governmental Operations.
- 39 (18) The leasing of no more than 50 acres within the North Carolina
40 Zoological Park by the Department of Environment and Natural
41 Resources to the North Carolina Zoological Society for the maintenance
42 or operation, pursuant to a contract or otherwise, of an exhibition center,

1 theater, conference center, and associated restaurants and lodging
2 facilities."

3 (g) G.S. 114-19.6 reads as rewritten:

4 **"§ 114-19.6. Criminal history record checks of employees of and applicants for**
5 **employment with the Department of Health and Human Services, and the**
6 **Department of Juvenile Justice.**

7 (a) Definitions. – As used in this section, the term:

8 (1) 'Covered person' means:

- 9 a. An applicant for employment or a current employee in a position
10 in the Department of Health and Human Services or the
11 Department of Juvenile Justice who provides direct care for a
12 client, patient, student, resident or ward of the Department; or
13 b. Supervises positions providing direct care as outlined in sub-
14 subdivision a. of this subdivision.

15 (2) 'Criminal history' means a State or federal history of conviction of a
16 crime, whether a misdemeanor or felony, that bears upon a covered
17 person's fitness for employment in the Department of Health and
18 Human Services. Services or the Department of Juvenile Justice. The
19 crimes include, but are not limited to, criminal offenses as set forth in
20 any of the following Articles of Chapter 14 of the General Statutes:
21 Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A,
22 Endangering Executive and Legislative Officers; Article 6, Homicide;
23 Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article
24 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage
25 by Use of Explosive or Incendiary Device or Material; Article 14,
26 Burglary and Other Housebreakings; Article 15, Arson and Other
27 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
28 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
29 Obtaining Property or Services by False or Fraudulent Use of Credit
30 Device or Other Means; Article 19B, Financial Transaction Card Crime
31 Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses
32 Against Public Morality and Decency; Article 26A, Adult
33 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
34 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
35 Against the Public Peace; Article 36A, Riots and Civil Disorders;
36 Article 39, Protection of Minors; Article 40, Protection of the Family;
37 Article 59, Public Intoxication; and Article 60, Computer-Related
38 Crime. The crimes also include possession or sale of drugs in violation
39 of the North Carolina Controlled Substances Act, Article 5 of Chapter
40 90 of the General Statutes, and alcohol-related offenses such as sale to
41 underage persons in violation of G.S. 18B-302, or driving while
42 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

1 (b) When requested by the Department of Health and Human ~~Services~~, Services or
2 the Department of Juvenile Justice, the North Carolina Department of Justice may
3 provide to the Department of ~~Health and Human Services~~ a covered person's criminal
4 history from the State Repository of Criminal Histories. Such requests shall not be due to
5 a person's age, sex, race, color, national origin, religion, creed, political affiliation, or
6 handicapping condition as defined by G.S. 168A-3. For requests for a State criminal
7 history record check only, the Department of ~~Health and Human Services~~ shall provide to
8 the Department of Justice a form consenting to the check signed by the covered person to
9 be checked and any additional information required by the Department of Justice.
10 National criminal record checks are authorized for covered applicants who have not
11 resided in the State of North Carolina during the past five years. For national checks the
12 Department of ~~Health and Human Services~~ shall provide to the North Carolina
13 Department of Justice the fingerprints of the covered person to be checked, any additional
14 information required by the Department of Justice, and a form signed by the covered
15 person to be checked consenting to the check of the criminal record and to the use of
16 fingerprints and other identifying information required by the State or National
17 Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of
18 Investigation for a search of the State criminal history record file and the State Bureau of
19 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for
20 a national criminal history record check. The Department of Health and Human Services
21 shall keep all information pursuant to this section confidential. The Department of Justice
22 shall charge a reasonable fee for conducting the checks of the criminal history records
23 authorized by this section.

24 (c) All releases of criminal history information to the Department of Health and
25 Human Services or the Department of Juvenile Justice shall be subject to, and in
26 compliance with, rules governing the dissemination of criminal history record checks as
27 adopted by the North Carolina Division of Criminal Information. All of the information
28 the Department of ~~Health and Human Services~~ receives through the checking of the
29 criminal history is privileged information and for the exclusive use of the ~~Department of~~
30 ~~Health and Human Services~~. Department.

31 (d) If the covered person's verified criminal history record check reveals one or
32 more convictions covered under subsection (a) of this section, then the conviction shall
33 constitute just cause for not selecting the person for employment, or for dismissing the
34 person from current employment with the Department of Health and Human ~~Services~~.
35 Services or the Department of Juvenile Justice. The conviction shall not automatically
36 prohibit employment; however, the following factors shall be considered by the
37 Department of ~~Health and Human Services~~ in determining whether employment shall be
38 denied:

- 39 (1) The level and seriousness of the crime;
- 40 (2) The date of the crime;
- 41 (3) The age of the person at the time of the conviction;
- 42 (4) The circumstances surrounding the commission of the crime, if known;

1 (5) The nexus between the criminal conduct of the person and job duties of
2 the person;

3 (6) The prison, jail, probation, parole, rehabilitation, and employment
4 records of the person since the date the crime was committed; and

5 (7) The subsequent commission by the person of a crime listed in
6 subsection (a) of this section.

7 (e) The Department of Health and Human Services and the Department of
8 Juvenile Justice may deny employment to or dismiss a covered person who refuses to
9 consent to a criminal history record check or use of fingerprints or other identifying
10 information required by the State or National Repositories of Criminal Histories. Any
11 such refusal shall constitute just cause for the employment denial or the dismissal from
12 employment.

13 (f) The Department of Health and Human Services and the Department of
14 Juvenile Justice may extend a conditional offer of employment pending the results of a
15 criminal history record check authorized by this section."

16 (h) G.S. 115C-110 reads as rewritten:

17 "**§ 115C-110. Services mandatory; single-agency responsibility; State and local**
18 **plans; census and registration.**

19 (a) The Board shall cause to be provided by all local school administrative units
20 and by all other State and local governmental agencies providing special education
21 services or having children with special needs in their care, custody, management,
22 jurisdiction, control, or programs, special education and related services appropriate to all
23 children with special needs. In this regard, all local school administrative units and all
24 other State and local governmental agencies providing special education and related
25 services shall explore available local resources and determine whether the services are
26 currently being offered by an existing public or private agency.

27 When a specified special education or related service is being offered by a local
28 public or private resource, any unit or agency described above shall negotiate for the
29 purchase of that service or shall present full consideration of alternatives and its
30 recommendations to the Board. In this regard, a new or additional program for special
31 education or related services shall be developed with the approval of the Board only
32 when that service is not being provided by existing public or private resources or the
33 service cannot be purchased from existing providers. Further, the Board shall support and
34 encourage joint and collaborative special education planning and programming at local
35 levels to include local administrative units and the programs and agencies of the
36 Departments of Health and Human ~~Services~~-Services, Juvenile Justice, and Correction.

37 The jurisdiction of the Board with respect to the design and content of special
38 education programs or related services for children with special needs extends to and
39 over the Department of Health and Human ~~Services~~-Services, the Department of Juvenile
40 Justice, and the Department of Correction.

41 All provisions of this Article that are specifically applicable to local school
42 administrative units also are applicable to the Department of Health and Human ~~Services~~
43 Services, the Department of Juvenile Justice, and the Department of Correction and their

1 divisions and agencies; all duties, responsibilities, rights and privileges specifically
2 imposed on or granted to local school administrative units by this Article also are
3 imposed on or granted to the Department of Health and Human ~~Services~~-Services, the
4 Department of Juvenile Justice, and the Department of Correction and their divisions and
5 agencies. However, with respect to children with special needs who are residents or
6 patients of any state-operated or state-supported residential treatment facility, including
7 without limitation, a school for the deaf, school for the blind, mental hospital or center,
8 mental retardation center, or in a facility operated by the Department of Juvenile Justice,
9 the Department of Correction or any of its divisions and agencies, the Board shall have
10 the power to contract with the Department of Health and Human ~~Services~~-Services, the
11 Department of Juvenile Justice, and the Department of Correction for the provision of
12 special education and related services and the power to review, revise and approve ~~said~~
13 these Departments' plans for special education and related services to those residents.

14 The Departments of Health and Human ~~Services~~-Services, Juvenile Justice, and
15 Correction shall submit to the Board their plans for the education of children with special
16 needs in their care, custody, or control. The Board shall have general supervision and
17 shall set standards, by rule or regulation, for the programs of special education to be
18 administered by it, by local educational agencies, and by the Departments of Health and
19 Human ~~Services~~-Services, Juvenile Justice, and Correction. The Board may grant specific
20 exemptions for programs administered by the Department of Health and Human ~~Services~~
21 Services, the Department of Juvenile Justice, or the Department of Correction when
22 compliance by them with the Board's standards would, in the Board's judgment, impose
23 undue hardship on ~~such~~-this Department and when other procedural due process
24 requirements, substantially equivalent to those of G.S. 115C-116, are assured in programs
25 of special education and related services furnished to children with special needs served
26 by ~~such~~-this Department. Further, the Board shall recognize that inpatient and residential
27 special education programs within the Departments of Health and Human ~~Services~~
28 Services, Juvenile Justice, and Correction may require more program resources than
29 those necessary for optimal operation of ~~such~~-these programs in local school
30 administrative units.

31 Every State and local department, division, unit or agency covered by this section is
32 hereinafter referred to as a 'local educational agency' unless the text of this Article
33 otherwise provides.

34 (b) The Board shall make and keep current a plan for the implementation of the
35 policy set forth in G.S. 115C-106(b). The plan shall include:

- 36 (1) A census of the children with special needs in the State, as required by
37 subsection (j) of this section;
- 38 (2) A procedure for diagnosis and evaluation of each ~~such~~-child;
- 39 (3) An inventory of the personnel and facilities available to provide special
40 education for ~~such~~-these children;
- 41 (4) An analysis of the present distribution of responsibility for special
42 education between State and local educational agencies, together with

1 recommendations for any necessary or desirable changes in the
2 distribution of responsibilities;

3 (5) Standards for the education of children with special needs;

4 (6) Programs and procedures for the development and implementation of a
5 comprehensive system of personnel development; and

6 (7) Any additional matters, including recommendations for amendment of
7 laws, changes in administrative regulations, rules and practices and
8 patterns of special organization, and changes in levels and patterns of
9 education financial support.

10 (c) The Board shall annually submit amendments to or revisions of the plan
11 required by subsection (b) to the Governor and General Assembly and make it available
12 for public comment pursuant to subdivision (1) and for public distribution no less than 30
13 days before January 15 of each year. All such submissions shall set forth in detail the
14 progress made in the implementation of the plan.

15 (d) The Board shall adopt rules ~~or regulations~~ covering:

16 (1) The qualifications of and standards for certification of teachers, teacher
17 assistants, speech clinicians, school psychologists, and others involved
18 in the education and training of children with special needs;

19 (2) Minimum standards for the individualized educational program for all
20 children with special needs other than for the pregnant children, and for
21 the educational program for the pregnant children, who receive special
22 education and related services; and

23 (3) ~~Such~~ Any other rules ~~or regulations~~ as may be necessary or appropriate
24 for carrying out the purposes of this Article. Representatives from the
25 Departments of Health and Human ~~Services~~ Services, Juvenile Justice,
26 and Correction shall be involved in the development of the standards
27 outlined under this subsection.

28 (e) On or before October 15, each local educational agency shall report annually to
29 the Board the extent to which it is then providing special education for children with
30 special needs. The annual report also shall detail the means by which the local
31 educational agency proposes to secure full compliance with the policy of this Article,
32 including the following:

33 (1) A statement of the extent to which the required education and services
34 will be provided directly by the agency;

35 (2) A statement of the extent to which standards in force pursuant to G.S.
36 115C-110(b)(5) and (d)(2) are being met by the agency; and

37 (3) The means by which the agency will contract to provide, at levels
38 meeting standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2),
39 all special education and related services not provided directly by it or
40 by the State.

41 (f) After submitting the report required by subsection (e), the local educational
42 agency also shall submit such supplemental and additional reports as the Board may
43 require to keep the local educational agency's plan current.

1 (g) By ~~rule or regulation~~, rule, the Board shall prescribe due dates not later than
2 October 15 of each year, and all other necessary or appropriate matters relating to ~~such~~
3 these annual and supplemental and additional reports.

4 (h) The annual report shall be a two-year plan for providing appropriate special
5 education and related services to children with special needs. The agency shall submit the
6 plan to the Board for its review, approval, modification, or disapproval. Unless thereafter
7 modified with approval of the Board, the plan shall be adhered to by the local educational
8 agency. The procedure for approving, disapproving, establishing, and enforcing the plan
9 shall be the same as that set forth for the annual plan. The long-range plan shall include
10 such provisions as may be appropriate for the following, without limitation:

11 (1) Establishment of classes, other programs of instruction, curricula,
12 facilities, equipment, and special services for children with special
13 needs; and

14 (2) Utilization and professional development of teachers and other
15 personnel working with children with special needs.

16 (i) Each local educational agency shall provide free appropriate special education
17 and related services in accordance with the provisions of this Article for all children with
18 special needs who are residents of, or whose parents or guardians are residents of, the
19 agency's district, beginning with children aged five. No matriculation or tuition fees or
20 other fees or charges shall be required or asked of children with special needs or their
21 parents or guardians except ~~such~~ those fees or charges as are required uniformly of all
22 public school pupils. The provision of free appropriate special education within the
23 facilities of the Department of Health and Human ~~Services~~ and the Department of
24 Juvenile Justice shall not prevent ~~that~~ those Department from charging for other services
25 or treatment.

26 (j) The Board shall require an annual census of children with special needs,
27 subdivided for 'identified' and 'suspected' children with special needs, to be taken in each
28 school year. Suspected children are those in the formal process of being identified,
29 evaluated or diagnosed as children with special needs. The census shall be conducted
30 annually and shall be completed not later than October 15, and shall be submitted to the
31 Governor and General Assembly and be made available to the public no later than
32 January 15 annually.

33 In taking the census, the Board shall require the cooperation, participation, and
34 assistance of all local educational agencies and all other State and local governmental
35 departments and agencies providing or required to provide special education services to
36 children with special needs, and those departments and agencies shall cooperate and
37 participate with and assist the Board in conducting the census.

38 The census shall include the number of children identified and suspected with special
39 needs, their age, the nature of their disability, their county or city of residence, their local
40 school administrative unit residence, whether they are being provided special educational
41 or related services and if so by what department or agency, whether they are not being
42 provided special education or related services, the identity of each department or agency
43 having children with special needs in its care, custody, management, jurisdiction, control,

1 or programs, the number of children with special needs being served by each department
2 or agency, and such other information or data as the Board shall require. The census shall
3 be of children with special needs between the ages of three and 21, inclusive.

4 (k) The Department shall monitor the effectiveness of individualized education
5 programs in meeting the educational needs of all children with special needs other than
6 pregnant children, and of educational programs in meeting the educational needs of the
7 pregnant children.

8 (l) The Board shall provide for procedures assuring that in carrying out the
9 requirements of this Article procedures are established for consultation with individuals
10 involved in or concerned with the education of children with special needs, including
11 parents or guardians of such children, and there are public hearings, adequate notice of
12 such hearings, and an opportunity for comment available to the general public prior to the
13 adoption of the policies, procedures, and rules or regulations required by this Article.

14 (m) Children with special needs shall be educated in the least restrictive
15 appropriate setting, as defined by the State Board of Education."

16 (i) G.S. 115C-111 reads as rewritten:

17 **"§ 115C-111. Free appropriate education for all children with special needs.**

18 No child with special needs between the ages specified by G.S. 115C-109 shall be
19 denied a free appropriate public education or be prevented from attending the public
20 schools of the local educational agency in which he or his parents or legal guardian
21 resides or from which he receives services or from attending any other public program of
22 free appropriate public education because he is a child with special needs. If it appears
23 that a child should receive a program of free appropriate public education in a program
24 operated by or under the supervision of the Department of Health and Human ~~Services,~~
25 ~~Services or the Department of Juvenile Justice,~~ the local educational agency shall confer
26 with the appropriate Department of Health and Human Services or ~~Juvenile Justice~~ staff
27 for their participation and determination of the appropriateness of placement in said
28 program and development of the child's individualized education program. The
29 individualized education program may then be challenged under the due process
30 provisions of G.S. 115C-116. Every child with special needs shall be entitled to attend
31 ~~such these~~ nonresidential schools or programs and receive from them free appropriate
32 public education."

33 (j) G.S. 115C-113(f) reads as rewritten:

34 "(f) Each local educational agency shall prepare individualized educational
35 programs for all children found to be children with special needs other than the pregnant
36 children, and educational programs prescribed in subsection (h) of this section for the
37 pregnant children. The individualized educational program shall be developed in
38 conformity with Public Law 94-142 and the implementing regulations issued by the
39 United States Department of Education and shall be implemented in conformity with
40 timeliness set by that Department. The term "individualized educational program" means
41 a written statement for each such child developed in any meeting by a representative of
42 the local educational agency who shall be qualified to provide, or supervise the provision
43 of, specially designed instruction to meet the unique needs of such children, the teacher,

1 the parents or guardian of such child, and, whenever appropriate, such child, which
2 statement shall be based on rules developed by the Board. Each local educational agency
3 shall establish, or revise, whichever is appropriate, the individualized educational
4 program of each child with special needs each school year and will then review and, if
5 appropriate revise, its provisions periodically, but not less than annually. In the facilities
6 and programs of the Department of Health and Human ~~Services~~, Services and the
7 Department of Juvenile Justice, the individualized educational program shall be planned
8 in collaboration with those other individuals responsible for the design of the total
9 treatment or habilitation plan or both; the resulting educational, treatment, and
10 habilitation plans shall be coordinated, integrated, and internally consistent."

11 (k) G.S. 115C-113.1 reads as rewritten:

12 **"§ 115C-113.1. Surrogate parents.**

13 In the case of a child whose parent or guardian is unknown, whose whereabouts
14 cannot be determined after reasonable investigation, or who is a ward of the State, the
15 local educational agency shall appoint a surrogate parent for the child. The surrogate
16 parent shall be appointed from a group of persons approved by the Superintendent of
17 Public ~~Instruction and Instruction~~, the Secretary of Health and Human Services, and the
18 Secretary of the Department of Juvenile Justice, but in no case shall the person appointed
19 be an employee of the local educational agency or directly involved in the education or
20 care of the child. The Superintendent shall ensure that local educational agencies appoint
21 a surrogate parent for every child in need of a surrogate parent."

22 (l) G.S. 115C-115 reads as rewritten:

23 **"§ 115C-115. Placements in private schools, out-of-state schools and schools in other
24 local educational agencies.**

25 The board shall adopt rules and regulations to assure that:

26 (1) There be no cost to the parents or guardian for the placement of a child
27 in a private school, out-of-state school or a school in another local
28 education agency if the child was so placed by the Board or by the
29 appropriate local educational agency as the means of carrying out the
30 requirement of this Article or any other applicable law requiring the
31 provision of special education and related services to children within the
32 State.

33 (2) No child shall be placed by the Board or by the local educational agency
34 in a private or out-of-state school unless the Board has determined that
35 the school meets standards that apply to State and local educational
36 agencies and that the child so placed will have all the rights he would
37 have if served by a State or local educational agency.

38 (3) If the placement of the child in a private school, out-of-state school or a
39 school in another local educational agency determined by the
40 Superintendent of Public Instruction to be the most cost-effective way to
41 provide an appropriate education to that child and the child is not
42 currently being educated by the Department of Health and Human
43 ~~Services~~ Services, the Department of Juvenile Justice, or the

1 Department of Correction, the State will bear a portion of the cost of the
2 placement of the child. The local school administrative unit shall pay an
3 amount equal to what it receives per pupil from the State Public School
4 Fund and from other State and federal funds for children with special
5 needs for that child. The State shall pay the full cost of any remainder
6 up to a maximum of fifty percent (50%) of the total cost."

7 (m) G.S. 115C-121(b) reads as rewritten:

8 "(b) The Council shall consist of ~~18~~23 members to be appointed as follows: five ex
9 officio members; two members appointed by the Governor; two members of the Senate
10 appointed by the President Pro Tempore; two members of the House of Representatives
11 appointed by the Speaker of the House; and 12 members appointed by the State Board of
12 Education. Of those members of the Council appointed by the State Board one member
13 shall be selected from each congressional district within the State, and the members so
14 selected shall be composed of at least one person representing each of the following:
15 handicapped individuals, parents or guardians of children with special needs, teachers of
16 children with special needs, and State and local education officials and administrators of
17 programs for children with special needs. The Council shall designate a chairperson from
18 among its members. The designation of the chairperson is subject to the approval of the
19 State Board of Education. The board shall promulgate rules or regulations to carry out
20 this subsection.

21 Ex officio members of the Council shall be the following:

22 (1) The Secretary of the Department of Health and Human Services or the
23 Secretary's designee;

24 (1a) The Secretary of the Department of Juvenile Justice or the Secretary's
25 designee;

26 (2) The Secretary of the Department of Correction or the Secretary's
27 designee;

28 (3) A representative from The University of North Carolina Planning
29 Consortium for Children with Special Needs; and

30 (4) The Superintendent of Public Instruction or the Superintendent's
31 designee.

32 The term of appointment for all members except those appointed by the State Board
33 of Education shall be for two years. The term for members appointed by the State Board
34 of Education shall be for four years. No person shall serve more than two consecutive
35 four-year terms. The initial term of office of the person appointed from the 12th
36 Congressional District shall commence on January 3, 1993, and expire on June 30, 1996.

37 Each Council member shall serve without pay, but shall receive travel allowances and
38 per diem in the same amount provided for members of the North Carolina General
39 Assembly."

40 (n) G.S. 115C-139(a) reads as rewritten:

41 "(a) The Board, any two or more local educational agencies and any such agency
42 and any State department, agency, or division having responsibility for the education,
43 treatment or habilitation of children with special needs are authorized to enter into

1 interlocal cooperation undertakings pursuant to the provisions of Chapter 160A, Article
2 20, Part 1 of the General Statutes or into undertakings with a State agency such as the
3 Departments of Public Instruction, Health and Human ~~Services~~, Juvenile Justice, or
4 Correction, or their divisions, agencies, or units, for the purpose of providing for the
5 special education and related services, treatment or habilitation of such children within
6 the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide
7 the appropriate public special education or related services for ~~such~~ these children. In
8 entering into such undertakings, the local agency and State department, agency, or
9 division shall also contract to provide the special education or related services that are
10 most educationally appropriate to the children with special needs for whose benefit the
11 undertaking is made, and provide ~~such~~ these services by or in the local agency unit or
12 State department, agency, or division located in the place most convenient to ~~such~~ these
13 children."

14 (o) G.S. 115C-250(a) reads as rewritten:

15 "(a) The State Board of Education and local boards of education may expend public
16 funds for transportation of handicapped children with special needs who are unable
17 because of their handicap to ride the regular school buses and who have been placed in
18 programs by a local school board as a part of its duty to provide such children with a free
19 appropriate education, including its duty under G.S. 115C-115. At the option of the local
20 board of education with the concurrence of the State Board of Education, funds
21 appropriated to the State Board of Education for contract transportation of exceptional
22 children may be used to purchase buses and minibuses as well as for the purposes
23 authorized in the budget. The State Board of Education shall adopt rules and regulations
24 concerning the construction and equipment of these buses and minibuses.

25 The Department of Health and Human ~~Services~~ Services, the Department of Juvenile
26 Justice, and the Department of Correction may also expend public funds for
27 transportation of handicapped children with special needs who are unable because of their
28 handicap to ride the regular school buses and who have been placed in programs by one
29 of these agencies as a part of that agency's duty to provide such children with a free
30 appropriate public education.

31 If a local area mental health center places a child with special needs in an educational
32 program, the local area mental health center shall pay for the transportation of the child,
33 if handicapped and unable because of the handicap to ride the regular school buses, to the
34 program."

35 (p) G.S. 115C-325(p) reads as rewritten:

36 "(p) Section Applicable to Certain Institutions. – Notwithstanding any law or
37 regulation to the contrary, this section shall apply to all persons employed in teaching and
38 related educational classes in the schools and institutions of the Departments of Health
39 and Human ~~Services~~ Services, Juvenile Justice, and Correction regardless of the age of
40 the students."

41 (q) G.S. 115D-1 reads as rewritten:

42 "**§ 115D-1. Statement of purpose.**

1 The purposes of this Chapter are to provide for the establishment, organization, and
2 administration of a system of educational institutions throughout the State offering
3 courses of instruction in one or more of the general areas of two-year college parallel,
4 technical, vocational, and adult education programs, to serve as a legislative charter for
5 such institutions, and to authorize the levying of local taxes and the issuing of local bonds
6 for the support thereof. The major purpose of each and every institution operating under
7 the provisions of this Chapter shall be and shall continue to be the offering of vocational
8 and technical education and training, and of basic, high school level, academic education
9 needed in order to profit from vocational and technical education, for students who are
10 high school graduates or who are beyond the compulsory age limit of the public school
11 system and who have left the public schools, provided, juveniles of any age committed to
12 the ~~Division of Youth Services of the Department of Health and Human Services~~
13 Department of Juvenile Justice by a court of competent jurisdiction may, if approved by
14 the director of the training school to which they are assigned, take courses offered by
15 institutions of the system if they are otherwise qualified for admission."

16 (r) G.S. 115D-5(b) reads as rewritten:

17 "(b) In order to make instruction as accessible as possible to all citizens, the
18 teaching of curricular courses and of noncurricular extension courses at convenient
19 locations away from institution campuses as well as on campuses is authorized and shall
20 be encouraged. A pro rata portion of the established regular tuition rate charged a full-
21 time student shall be charged a part-time student taking any curriculum course. In lieu of
22 any tuition charge, the State Board of Community Colleges shall establish a uniform
23 registration fee, or a schedule of uniform registration fees, to be charged students
24 enrolling in extension courses for which instruction is financed primarily from State
25 funds; provided, however, that the State Board of Community Colleges may provide by
26 general and uniform regulations for waiver of tuition and registration fees for persons not
27 enrolled in elementary or secondary schools taking courses leading to a high school
28 diploma or equivalent certificate, for training courses for volunteer firemen, local fire
29 department personnel, volunteer rescue and lifesaving department personnel, local rescue
30 and lifesaving department personnel, Radio Emergency Associated Citizens Team
31 (REACT) members when the REACT team is under contract to a county as an emergency
32 response agency, local law-enforcement officers, patients in State alcoholic rehabilitation
33 centers, all full-time custodial employees of the Department of Correction, employees of
34 the Department's Division of Adult Probation and Parole and employees of the ~~Division~~
35 ~~of Youth Services of the Department of Health and Human Services~~ Department of
36 Juvenile Justice required to be certified pursuant to Chapter 17C of the General Statutes
37 and the rules of the Criminal Justice and Training Standards Commission, trainees
38 enrolled in courses conducted under the New and Expanding Industry Program, clients of
39 sheltered workshops, clients of adult developmental activity programs, students in Health
40 and Human Services Development Programs, juveniles of any age committed to the
41 ~~Division of Youth Services of the Department of Health and Human Services~~ Department
42 of Juvenile Justice by a court of competent jurisdiction, prison inmates, and members of
43 the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered

1 pursuant to Article 5 of Chapter 127A of the General Statutes. Provided further, tuition
2 shall be waived for senior citizens attending institutions operating pursuant to this
3 Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior
4 Citizens. Provided further, tuition shall also be waived for all courses taken by high
5 school students at community colleges in accordance with G.S. 115D-20(4) and this
6 section."

7 (s) G.S. 122C-3(13a) reads as rewritten:

8 "(13a) 'Eligible assaultive and violent children' means children who are citizens
9 of North Carolina and:

10 a. Who suffer from emotional, mental, or neurological handicaps
11 that have been accompanied by behavior that is characterized as
12 violent or assaultive; and

13 b. Who are involuntarily institutionalized or otherwise placed in
14 residential programs, including:

15 1. Minors who are mentally ill as defined by G.S. 122C-
16 3(21) and who are admitted for evaluation or treatment to
17 a treatment facility under Article 5 of Chapter 122C of the
18 General Statutes or are presented for admission and
19 denied due to their behaviors or handicapping conditions;

20 2. Minors who are referred to an area mental health,
21 developmental disabilities, and substance abuse authority
22 pursuant to ~~G.S. 7A-647(3)~~ G.S. 7B-903 for whom
23 residential treatment or placement is recommended;

24 3. Minors who are placed in residential programs as a
25 condition of probation pursuant to ~~G.S. 7A-649(8)~~; G.S.
26 7B-2504;

27 4. Minors who are ordered to a professional residential
28 treatment program pursuant to ~~G.S. 7A-649(6)~~; G.S. 7B-
29 2504; and

30 5. Minors committed to the custody of the ~~Division of Youth~~
31 ~~Services Department of Juvenile Justice~~, pursuant to ~~G.S.~~
32 ~~7A-649(10)~~; G.S. 7B-2504; and

33 c. For whom the State has not provided appropriate treatment and
34 educational programs."

35 (t) G.S. 122C-113(b1) reads as rewritten:

36 "(b1) The Secretary shall cooperate with the State Board of Education and the
37 Department of Juvenile Justice in coordinating the responsibilities of the Department of
38 Health and Human Services, the State Board of Education, the Department of Juvenile
39 Justice, and the Department of Public Instruction for adolescent substance abuse
40 programs. The Department of Health and Human Services, through its Division of
41 Mental Health, Developmental Disabilities, and Substance Abuse Services, in
42 cooperation with the Department of Juvenile Justice, shall be responsible for intervention
43 and treatment in non-school based programs. The State Board of Education and the

1 Department of Public ~~Instruction~~ Instruction, in consultation with the Department of
 2 Juvenile Justice, shall have primary responsibility for in-school education, identification,
 3 and intervention services, including student assistance programs."

4 (u) G.S. 122C-117(a) reads as rewritten:

5 "(a) The area authority shall:

6 (1) Engage in comprehensive planning, budgeting, implementing, and
 7 monitoring of community-based mental health, developmental
 8 disabilities, and substance abuse services;

9 (2) Provide services to clients in the catchment ~~area~~; area, including clients
 10 committed to the custody of the Department of Juvenile Justice;

11 (3) Determine the needs of the area authority's clients and coordinate with
 12 the Secretary and with the Secretary of the Department of Juvenile
 13 Justice the provision of services to clients through area and State
 14 facilities;

15 (4) Develop plans and budgets for the area authority subject to the approval
 16 of the Secretary;

17 (5) Assure that the services provided by the area authority meet the rules of
 18 the Commission and Secretary;

19 (6) Comply with federal requirements as a condition of receipt of federal
 20 grants; and

21 (7) Appoint an area director, chosen through a search committee on which
 22 the Secretary of the Department of Health and Human Services or the
 23 Secretary's designee serves as a nonvoting member."

24 (v) G.S. 143-138(g) reads as rewritten:

25 "(g) Publication and Distribution of Code. – The Building Code Council shall cause
 26 to be printed, after adoption by the Council, the North Carolina State Building Code and
 27 each amendment thereto. It shall, at the State's expense, distribute copies of the Code and
 28 each amendment to State and local governmental officials, departments, agencies, and
 29 educational institutions, as is set out in the table below. (Those marked by an asterisk will
 30 receive copies only on written request to the Council.)

31 OFFICIAL OR AGENCY	NUMBER OF COPIES
32 State Departments and Officials	
33 Governor	1
34 Lieutenant Governor	1
35 Auditor	1
36 Treasurer	1
37 Secretary of State	1
38 Superintendent of Public Instruction.....	1
39 Attorney General (Library)	1
40 Commissioner of Agriculture.....	1
41 Commissioner of Labor.....	1
42 Commissioner of Insurance	1
43 Department of Environment and	

1 Natural Resources..... 1
 2 Department of Health and Human Services..... 1
 3 Department of Juvenile Justice 1
 4 Board of Transportation 1
 5 Utilities Commission..... 1
 6 Department of Administration 1
 7 Clerk of the Supreme Court 1
 8 Clerk of the Court of Appeals 1
 9 Clerk of the Superior Court..... 1 each
 10 Department of Cultural Resources [State
 11 Library]..... 5
 12 Supreme Court Library 2
 13 Legislative Library 1
 14 Schools
 15 All state-supported colleges and universities
 16 in the State of North Carolina..... *1 each
 17 Local Officials
 18 Clerks of the Superior Courts..... 1 each
 19 Chief Building Inspector of each incorporated
 20 municipality or county..... 1
 21

22 In addition, the Building Code Council shall make additional copies available at such
 23 price as it shall deem reasonable to members of the general public."

24 (w) G.S. 143B-138.1(a) reads as rewritten:
 25 "(a) All functions, powers, duties, and obligations previously vested in the
 26 following commissions, boards, councils, committees, or subunits of the Department of
 27 Human Resources are transferred to and vested in the Department of Health and Human
 28 Services by a Type I transfer, as defined in G.S. 143A-6:

- 29 (1) Division of Aging.
- 30 (2) Division of Services for the Blind.
- 31 (3) Division of Medical Assistance.
- 32 (4) Division of Mental Health, Developmental Disabilities, and Substance
 33 Abuse Services.
- 34 (5) Division of Social Services.
- 35 (6) Division of Facility Services.
- 36 (7) Division of Vocational Rehabilitation.
- 37 ~~(8) Division of Youth Services.~~
- 38 (9) Division of Services for the Deaf and the Blind.
- 39 (10) Office of Economic Opportunity.
- 40 (11) Division of Child Development.
- 41 (12) Office of Rural Health."
- 42 (x) G.S. 143B-150.7(b) reads as rewritten:

1 "(b) The Committee shall have 24 members appointed for staggered four-year terms
2 and until their successors are appointed and qualify. The Governor shall have the power
3 to remove any member of the Committee from office in accordance with the provisions
4 of G.S. 143B-13. Members may succeed themselves for one term and may be appointed
5 again after being off the Committee for one term. Six of the members shall be legislators
6 appointed by the General Assembly, three of whom shall be recommended by the
7 Speaker of the House of Representatives, and three of whom shall be recommended by
8 the President Pro Tempore of the Senate. Two of the members shall be appointed by the
9 General Assembly from the public at large, one of whom shall be recommended by the
10 Speaker of the House of Representatives, and one of whom shall be recommended by the
11 President Pro Tempore of the Senate. The remainder of the members shall be appointed
12 by the Governor as follows:

- 13 (1) ~~Five~~Four members representing the Department of Health and Human
14 Services, one of whom shall be the Assistant Secretary for Children and
15 Family, one of whom shall represent the Division of Social Services,
16 ~~one of whom shall represent the Division of Youth Services,~~ one of
17 whom shall represent the Division of Mental Health, Developmental
18 Disabilities, and Substance Abuse Services, and one of whom shall
19 represent the Division of Maternal and Child Health;
- 20 (2a) One member representing the Department of Juvenile Justice;
- 21 (2) Two members, one from each of the following: the Administrative
22 Office of the Courts and the Department of Public Instruction;
- 23 (3) One member who represents the Juvenile Justice Planning Committee of
24 the Governor's Crime Commission, and one member appointed at large;
- 25 (4) One member who is a district court judge certified by the
26 Administrative Office of the Courts to hear juvenile cases;
- 27 (5) One member representing the schools of social work of The University
28 of North Carolina;
- 29 (6) Two members, one of whom is a provider of family preservation
30 services, and one of whom is a consumer of family preservation
31 services; and
- 32 (7) Three members who represent county-level associations; one of whom
33 represents the Association of County Commissioners, one of whom
34 represents the Association of Directors of Social Services, and one of
35 whom represents the North Carolina Council of Mental Health,
36 Developmental Disabilities, and Substance Abuse Services.

37 The Secretary of the Department of Health and Human Services shall serve as the
38 Chair of the Committee. The Secretary shall appoint the cochair of the Committee for a
39 two-year term on a rotating basis from among the Committee members who represent the
40 ~~Division of Youth Services,~~ Department of Juvenile Justice, the Division of Social
41 Services, and the Division of Mental Health, Developmental Disabilities, and Substance
42 Abuse Services."

- 43 (y) G.S. 143B-152.6 reads as rewritten:

1 **"§ 143B-152.6. ~~Cooperation~~ S.O.S. Program; cooperation of State and local**
2 **agencies.**

3 All agencies of the State and local government, including the Department of Juvenile
4 Justice, departments of social services, health departments, local mental health, mental
5 retardation, and substance abuse authorities, court personnel, law enforcement agencies,
6 The University of North Carolina, the community college system, and cities and counties,
7 shall cooperate with the Department of Health and Human Services, and local nonprofit
8 corporations that receive grants in coordinating the program at the State level and in
9 implementing the program at the local level. The Secretary of Health and Human
10 Services, after consultation with the Superintendent of Public Instruction, shall develop a
11 plan for ensuring the cooperation of State agencies and local agencies, and encouraging
12 the cooperation of private entities, especially those receiving State funds, in the
13 coordination and implementation of the program."

14 (z) G.S. 143B-152.14 reads as rewritten:

15 **"§ 143B-152.14. ~~Cooperation~~ Family Resource Center Grant Program; cooperation**
16 **of State and local agencies.**

17 All agencies of the State and local government, including the Department of Juvenile
18 Justice, departments of social services, health departments, local mental health, mental
19 retardation, and substance abuse authorities, court personnel, law enforcement agencies,
20 The University of North Carolina, the community college system, and cities and counties,
21 shall cooperate with the Department of Health and Human Services, and local nonprofit
22 corporations that receive grants in coordinating the program at the State level and in
23 implementing the program at the local level. The Secretary of Health and Human
24 Services, after consultation with the Superintendent of Public Instruction, shall develop a
25 plan for ensuring the cooperation of State agencies and local agencies and encouraging
26 the cooperation of private entities, especially those receiving State funds, in the
27 coordination and implementation of the program."

28 (aa) G.S. 143B-153(2) reads as rewritten:

29 "(2) The Social Services Commission shall have the power and duty to
30 establish standards and adopt rules and regulations:

- 31 a. For the programs of public assistance established by federal
32 legislation and by Article 2 of Chapter 108A of the General
33 Statutes of the State of North Carolina with the exception of the
34 program of medical assistance established by G.S. 108A-25(b);
35 b. To achieve maximum cooperation with other agencies of the
36 State and with agencies of other states and of the federal
37 government in rendering services to strengthen and maintain
38 family life and to help recipients of public assistance obtain self-
39 support and self-care;
40 c. For the placement and supervision of dependent children and
41 delinquent children who are placed in the custody of the
42 Department of Juvenile Justice, and payment of necessary costs

1 of foster home care for needy and homeless children as provided
2 by G.S. 108A-48; and

- 3 d. For the payment of State funds to private child-placing agencies
4 as defined in G.S. 131D-10.2(4) and residential child care
5 facilities as defined in G.S. 131D-10.2(13) for care and services
6 provided to children who are in the custody or placement
7 responsibility of a county department of social services."

8 (bb) G.S. 143B-417 reads as rewritten:

9 **"§ 143B-417. North Carolina Internship Council – creation; powers and duties.**

10 There is hereby created the North Carolina Internship Council of the Department of
11 Administration. The North Carolina Internship Council shall have the following functions
12 and duties:

- 13 (1) To determine the number of student interns to be allocated to each of the
14 following offices or departments:

- 15 a. Office of the Governor
16 b. Department of Administration
17 c. Department of Correction
18 d. Department of Cultural Resources
19 e. Department of Revenue
20 f. Department of Transportation
21 g. Department of Environment and Natural Resources
22 h. Department of Commerce
23 i. Department of Crime Control and Public Safety
24 j. Department of Health and Human Services
25 j1. Department of Juvenile Justice
26 k. Office of the Lieutenant Governor
27 l. Office of the Secretary of State
28 m. Office of the State Auditor
29 n. Office of the State Treasurer
30 o. Department of Public Instruction
31 p. Repealed by Session Laws 1985, c. 757, s. 162.
32 q. Department of Agriculture and Consumer Services
33 r. Department of Labor
34 s. Department of Insurance
35 t. Office of the Speaker of the House of Representatives
36 u. Justices of the Supreme Court and Judges of the Court of
37 Appeals
38 v. Department of Community Colleges
39 w. Office of State Personnel
40 x. Office of the Senate President Pro Tempore;

- 41 (2) To screen applications for student internships and select from these
42 applications the recipients of student internships; and

1 (3) To determine the appropriateness of proposals for projects for student
2 interns submitted by the offices and departments enumerated in (1)."

3 (cc) G.S. 143B-478 reads as rewritten:

4 **"§ 143B-478. Governor's Crime Commission – creation; composition; terms;
5 meetings, etc.**

6 (a) There is hereby created the Governor's Crime Commission of the Department
7 of Crime Control and Public Safety. The Commission shall consist of ~~34~~35 voting
8 members and six nonvoting members. The composition of the Commission shall be as
9 follows:

- 10 (1) The voting members shall be:
- 11 a. The Governor, the Chief Justice of the Supreme Court of North
12 Carolina (or his alternate), the Attorney General, the Director of
13 the Administrative Office of the Courts, the Secretary of the
14 Department of Health and Human Services, the Secretary of the
15 Department of Juvenile Justice, the Secretary of the Department
16 of Correction, and the Superintendent of Public Instruction;
 - 17 b. A judge of superior court, a judge of district court specializing in
18 juvenile matters, a chief district court judge, and a district
19 attorney;
 - 20 c. A defense attorney, three sheriffs (one of whom shall be from a
21 "high crime area"), three police executives (one of whom shall
22 be from a "high crime area"), six citizens (two with knowledge
23 of juvenile delinquency and the public school system, two of
24 whom shall be under the age of 21 at the time of their
25 appointment, one representative of a 'private juvenile
26 delinquency program,' and one in the discretion of the Governor),
27 three county commissioners or county officials, and three mayors
28 or municipal officials;
 - 29 d. Two members of the North Carolina House of Representatives
30 and two members of the North Carolina Senate.

31 (2) The nonvoting members shall be the Director of the State Bureau of
32 Investigation, the Secretary of the Department of Crime Control and
33 Public Safety, the Director of the ~~Division of Youth Services of the~~
34 ~~Department of Health and Human Services, the Administrator for~~
35 ~~Juvenile Services of the Administrative Office of the Courts,~~
36 Department of Juvenile Justice, the Director of the Division of Prisons
37 and the Director of the Division of Adult Probation and Paroles.

38 (b) The membership of the Commission shall be selected as follows:

- 39 (1) The following members shall serve by virtue of their office: the
40 Governor, the Chief Justice of the Supreme Court, the Attorney General,
41 the Director of the Administrative Office of the Courts, the Secretary of
42 the Department of Health and Human Services, the Secretary of the
43 Department of Juvenile Justice, the Secretary of the Department of

1 Correction, the Director of the State Bureau of Investigation, the
2 Secretary of the Department of Crime Control and Public Safety, the
3 Director of the Division of Prisons, the Director of the Division of Adult
4 Probation and Paroles, the Director of the ~~Division of Youth Services,~~
5 ~~the Administrator for Juvenile Services of the Administrative Office of~~
6 ~~the Courts,~~ Department of Juvenile Justice, and the Superintendent of
7 Public Instruction. Should the Chief Justice of the Supreme Court
8 choose not to serve, his alternate shall be selected by the Governor from
9 a list submitted by the Chief Justice which list must contain no less than
10 three nominees from the membership of the Supreme Court.

11 (2) The following members shall be appointed by the Governor: the district
12 attorney, the defense attorney, the three sheriffs, the three police
13 executives, the six citizens, the three county commissioners or county
14 officials, the three mayors or municipal officials.

15 (3) The following members shall be appointed by the Governor from a list
16 submitted by the Chief Justice of the Supreme Court, which list shall
17 contain no less than three nominees for each position and which list
18 must be submitted within 30 days after the occurrence of any vacancy in
19 the judicial membership: the judge of superior court, the judge of
20 district court specializing in juvenile matters, and the chief district court
21 judge.

22 (4) The two members of the House of Representatives provided by
23 subdivision (a)(1)d. of this section shall be appointed by the Speaker of
24 the House of Representatives and the two members of the Senate
25 provided by subdivision (a)(1)d. of this section shall be appointed by the
26 President Pro Tempore of the Senate. These members shall perform the
27 advisory review of the State plan for the General Assembly as permitted
28 by section 206 of the Crime Control Act of 1976 (Public Law 94-503).

29 (5) The Governor may serve as chairman, designating a vice-chairman to
30 serve at his pleasure, or he may designate a chairman and vice-chairman
31 both of whom shall serve at his pleasure.

32 (c) The initial members of the Commission shall be those appointed pursuant to
33 subsection (b) above, which appointments shall be made by March 1, 1977. The terms of
34 the present members of the Governor's Commission on Law and Order shall expire on
35 February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other
36 than those serving by virtue of their office, to serve staggered terms; seven shall be
37 appointed for one-year terms, seven for two-year terms, and seven for three-year terms.
38 At the end of their respective terms of office their successors shall be appointed for terms
39 of three years and until their successors are appointed and qualified. The Commission
40 members from the House and Senate shall serve two-year terms effective March 1, of
41 each odd-numbered year; and they shall not be disqualified from Commission
42 membership because of failure to seek or attain reelection to the General Assembly, but
43 resignation or removal from office as a member of the General Assembly shall constitute

1 resignation or removal from the Commission. Any other Commission member no longer
 2 serving in the office from which he qualified for appointment shall be disqualified from
 3 membership on the Commission. Any appointment to fill a vacancy on the Commission
 4 created by the resignation, dismissal, death, disability, or disqualification of a member
 5 shall be for the balance of the unexpired term.

6 (d) The Governor shall have the power to remove any member from the
 7 Commission for misfeasance, malfeasance or nonfeasance.

8 (e) The Commission shall meet quarterly and at other times at the call of the
 9 chairman or upon written request of at least eight of the members. A majority of the
 10 voting members shall constitute a quorum for the transaction of business."

11 (dd) G.S. 147-45 reads as rewritten:

12 **"§ 147-45. Distribution of copies of State publications.**

13 The Secretary of State shall, at the State's expense, as soon as possible after
 14 publication, provide such number of copies of the Session Laws and Senate and House
 15 Journals to federal, State, and local governmental officials, departments and agencies,
 16 and to educational institutions of instruction and exchange use, as is set out in the table
 17 below:

Agency or Institution	Session Laws	Assembly Journals
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
State Board of Education	1	0
Department of Public Instruction	3	1
Controller	1	0
Technical Assistance Centers	1 ea.	0
Department of Community Colleges	3	1
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture and Consumer Services, Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1
Budget Bureau	2	1

1	Controller	1	0
2	Property Control	1	0
3	Purchase and Contract	2	0
4	Policy and Development	1	0
5	Veterans Affairs Commission	1	0
6	Environment and Natural Resources,		
7	Department of	6	0
8	Wildlife Resources Commission	2	0
9	Revenue, Department of	5	1
10	Health and Human Services, Department of	6	0
11	Mental Health, Developmental Disabilities,		
12	and Substance Abuse Services,		
13	Division of	1	0
14	Social Services, Division of	3	0
15	Facilities Services, Division of	1	0
16	Youth Services , Division of	1	0
17	Hospitals and Institutions	1 ea.	0
18	<u>Juvenile Justice, Department of</u>	<u>3</u>	<u>0</u>
19	Transportation, Department of	1	0
20	Board of Transportation	3	0
21	Motor Vehicles, Division of	1	0
22	Commerce, Department of	1	0
23	Economic Development, Division of	2	0
24	State Ports Authority	1	0
25	Alcoholic Beverage Control Commission,		
26	North Carolina	2	0
27	Banking Commission	2	0
28	Utilities Commission	8	1
29	Industrial Commission	7	0
30	Labor Force Development Council	1	0
31	Milk Commission	5	0
32	Employment Security Commission	1	1
33	Correction, Department of	1	0
34	Department of Correction	2	0
35	Parole Commission	2	0
36	State Prison	1	0
37	Correctional Institutions	1 ea.	0
38	Cultural Resources, Department of	1	0
39	Archives and History, Division of	5	1
40	State Library	5	5
41	Publications Division	1	1
42	Crime Control and Public Safety, Department of	2	1
43	North Carolina Crime Commission	1	0

1	Adjutant General	2	0
2	Elections, State Board of	2	0
3	Office of Administrative Hearings	2	0
4	State Personnel Commission	1	0
5	Office of State Personnel	1	1
6	Legislative Branch		
7	State Senators	1 ea.	1 ea.
8	State Representatives	1 ea.	1 ea.
9	Principal Clerk – Senate	1	1
10	Principal Clerk – House	1	1
11	Reading Clerk – Senate	1	1
12	Reading Clerk – House	1	1
13	Sergeant at Arms – House	1	1
14	Sergeant at Arms – Senate	1	1
15	Enrolling Clerk	1	0
16	Engrossing Clerk	1	0
17	Indexer of the Laws	1	0
18	Legislative Building Library	35	15
19	Judicial System		
20	Justices of the Supreme Court	1 ea.	1 ea.
21	Judges of the Court of Appeals	1 ea.	1 ea.
22	Judges of the Superior Court	1 ea.	0
23	Emergency and Special Judges of the		
24	Superior Court	1 ea.	0
25	District Court Judges	1 ea.	0
26	District Attorneys	1 ea.	0
27	Clerk of the Supreme Court	1	1
28	Clerk of the Court of Appeals	1	1
29	Administrative Office of the Courts	4	1
30	Supreme Court Library	AS MANY AS REQUESTED	
31	Colleges and Universities		
32	The University of North Carolina System		
33	Administrative Offices	3	0
34	University of North Carolina,		
35	Chapel Hill	65	25
36	University of North Carolina,		
37	Charlotte	3	1
38	University of North Carolina,		
39	Greensboro	3	1
40	University of North Carolina,		
41	Asheville	2	1
42	University of North Carolina,		
43	Wilmington	2	1

1	North Carolina State University,		
2	Raleigh	5	3
3	Appalachian State University	2	1
4	East Carolina University	3	2
5	Elizabeth City State University	2	1
6	Fayetteville State University	2	1
7	North Carolina Agricultural and		
8	Technical University	2	1
9	North Carolina Central University	5	5
10	Western Carolina University	2	1
11	University of North Carolina,		
12	Pembroke	2	1
13	Winston-Salem State University	2	1
14	North Carolina School of the Arts	1	1
15	Private Institutions		
16	Duke University	6	6
17	Davidson College	3	2
18	Wake Forest University	5	5
19	Lenoir Rhyne College	1	1
20	Elon College	1	1
21	Guilford College	1	1
22	Campbell University	5	5
23	Wingate College	1	1
24	Pfeiffer College	1	1
25	Barber Scotia College	1	1
26	Barton College	1	1
27	Shaw University	1	1
28	St. Augustine's College	1	1
29	J. C. Smith University	1	1
30	Belmont Abbey College	1	1
31	Bennett College	1	1
32	Catawba College	1	1
33	Gardner-Webb College	1	1
34	Greensboro College	1	1
35	High Point College	1	1
36	Livingstone College	1	1
37	Mars Hill College	1	1
38	Meredith College	1	1
39	Methodist College	1	1
40	North Carolina Wesleyan College	1	1
41	Queens College	1	1
42	Sacred Heart College	1	1
43	St. Andrews Presbyterian College	1	1

1	Salem College	1	1
2	Warren Wilson College	1	1
3	County and Local Officials		
4	Clerks of the Superior Court	1 ea.	1 ea.
5	Register of Deeds	1 ea.	1 ea.
6	Federal, Out-of-State and Foreign		
7	Secretary to the President	1	0
8	Secretary of State	1	1
9	Secretary of Defense	1	0
10	Secretary of Agriculture	1	0
11	Secretary of the Interior	1	0
12	Secretary of Labor	1	1
13	Secretary of Commerce	1	1
14	Secretary of the Treasury	1	0
15	Secretary of Health, Education and		
16	Welfare	1	0
17	Secretary of Housing and Urban		
18	Development	1	0
19	Secretary of Transportation	1	0
20	Attorney General	1	0
21	Postmaster General	1	0
22	Bureau of Census	1	0
23	Bureau of Public Roads	1	0
24	Department of Justice	1	0
25	Department of Internal Revenue	1	0
26	Veterans' Administration	1	0
27	Farm Credit Administration	1	0
28	Securities and Exchange Commission	1	0
29	Social Security Board	1	0
30	Environmental Protection Agency	1	0
31	Library of Congress	8	2
32	Federal Judges resident in North		
33	Carolina	1 ea.	0
34	Federal District Attorneys resident in		
35	North Carolina	1 ea.	0
36	Marshal of the United States		
37	Supreme Court	1	0
38	Federal Clerks of Court resident in		
39	North Carolina	1 ea.	0
40	Supreme Court Library exchange list	1 ea.	0
41	One copy of the Session Laws shall be furnished the head of any department of State		
42	government created in the future.		

1 State agencies, institutions, etc., not found in or covered by this list may, upon written
2 request from their respective department head to the Secretary of State, and upon the
3 discretion of the Secretary of State as to need, be issued copies of the Session Laws on a
4 permanent loan basis with the understanding that should said copies be needed they will
5 be recalled."

6 **PART II. JUVENILE CODE STATUTORY RECOMMENDATIONS.**

7 Section 3. Subchapter XI, Articles 41 through 59 of Chapter 7A of the General
8 Statutes, the North Carolina Juvenile Code, Articles 24B and 39 of Chapter 7A of the
9 General Statutes, Articles 2A, 4, 4A, and 10 of Chapter 110 of the General Statutes, and
10 Article 62 of Chapter 143 of the General Statutes are repealed.

11 Section 4. The General Statutes are amended by adding a new Chapter to read:

12 **"Chapter 7B.**

13 **"Juvenile Code.**

14 **"SUBCHAPTER I. ABUSE, NEGLECT, DEPENDENCY.**

15 **"ARTICLE 1.**

16 **"Purposes; Definitions.**

17 **"§ 7B-100. Purpose.**

18 This Subchapter shall be interpreted and construed so as to implement the following
19 purposes and policies:

- 20 (1) To provide procedures for the hearing of juvenile cases that assure
21 fairness and equity and that protect the constitutional rights of juveniles
22 and parents;
23 (2) To develop a disposition in each juvenile case that reflects consideration
24 of the facts, the needs and limitations of the juvenile, the strengths and
25 weaknesses of the family, and the protection of the public safety;
26 (3) To provide for services for the protection of juveniles by means that
27 respect both the right to family autonomy and juveniles' needs for
28 safety, continuity, and permanence; and
29 (4) To provide standards for the removal, when necessary, of juveniles from
30 their homes and for the return of juveniles to their homes consistent
31 with preventing the unnecessary or inappropriate separation of juveniles
32 from their parents.

33 **"§ 7B-101. Definitions.**

34 As used in this Subchapter, unless the context clearly requires otherwise, the
35 following words have the listed meanings:

- 36 (1) Abused juveniles. – Any juvenile less than 18 years of age whose
37 parent, guardian, custodian, or caretaker:
38 a. Inflicts or allows to be inflicted upon the juvenile a serious
39 physical injury by other than accidental means;
40 b. Creates or allows to be created a substantial risk of serious
41 physical injury to the juvenile by other than accidental means;

- 1 c. Uses or allows to be used upon the juvenile cruel or grossly
2 inappropriate procedures or cruel or grossly inappropriate
3 devices to modify behavior;
- 4 d. Commits, permits, or encourages the commission of a violation
5 of the following laws by, with, or upon the juvenile: first-degree
6 rape, as provided in G.S. 14-27.2; second degree rape as
7 provided in G.S. 14-27.3; first-degree sexual offense, as provided
8 in G.S. 14-27.4; second degree sexual offense, as provided in
9 G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-
10 27.7; crime against nature, as provided in G.S. 14-177; incest, as
11 provided in G.S. 14-178 and G.S. 14-179; preparation of obscene
12 photographs, slides or motion pictures of the juvenile, as
13 provided in G.S. 14-190.5; employing or permitting the juvenile
14 to assist in a violation of the obscenity laws as provided in G.S.
15 14-190.6; dissemination of obscene material to the juvenile as
16 provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or
17 disseminating material harmful to the juvenile as provided in
18 G.S. 14-190.14 and G.S. 14-190.15; first and second degree
19 sexual exploitation of the juvenile as provided in G.S. 14-190.16
20 and G.S. 14-190.17; promoting the prostitution of the juvenile as
21 provided in G.S. 14-190.18; and taking indecent liberties with the
22 juvenile, as provided in G.S. 14-202.1, regardless of the age of
23 the parties;
- 24 e. Creates or allows to be created serious emotional damage to the
25 juvenile. Serious emotional damage is evidenced by a juvenile's
26 severe anxiety, depression, withdrawal, or aggressive behavior
27 toward himself or others; or
- 28 f. Encourages, directs, or approves of delinquent acts involving
29 moral turpitude committed by the juvenile.

30 (2) Caretaker. – Any person other than a parent, guardian, or custodian who
31 has responsibility for the health and welfare of a juvenile in a residential
32 setting. A person responsible for a juvenile's health and welfare means a
33 stepparent, foster parent, an adult member of the juvenile's household,
34 an adult relative entrusted with the juvenile's care, or any person such as
35 a house parent or cottage parent who has primary responsibility for
36 supervising a juvenile's health and welfare in a residential child care
37 facility or residential educational facility. 'Caretaker' also means any
38 person who has the responsibility for the care of a juvenile in a child
39 care facility as defined in Article 7 of Chapter 110 of the General
40 Statutes and includes any person who has the approval of the care
41 provider to assume responsibility for the juveniles under the care of the
42 care provider. Nothing in this subdivision shall be construed to impose a
43 legal duty of support under Chapter 50 or Chapter 110 of the General

- 1 Statutes. The duty imposed upon a caretaker as defined in this
2 subdivision shall be for the purpose of this Subchapter only.
- 3 (3) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy
4 clerk.
- 5 (4) Community-based program. – A program providing nonresidential or
6 residential treatment to a juvenile in the community where the juvenile's
7 family lives. A community-based program may include specialized
8 foster care, family counseling, shelter care, and other appropriate
9 treatment.
- 10 (5) Court. – The district court division of the General Court of Justice.
- 11 (6) Custodian. – The person or agency that has been awarded legal custody
12 of a juvenile by a court.
- 13 (7) Dependent juvenile. – A juvenile in need of assistance or placement
14 because the juvenile has no parent, guardian, or custodian responsible
15 for the juvenile's care or supervision or whose parent, guardian, or
16 custodian is unable to provide for the care or supervision and lacks an
17 appropriate alternative child care arrangement.
- 18 (8) Director. – The director of the county department of social services in
19 the county in which the juvenile resides or is found, or the director's
20 representative as authorized in G.S. 108A-14.
- 21 (9) District. – Any district court district as established by G.S. 7A-133.
- 22 (10) In loco parentis. – A person acting in loco parentis means one, other
23 than parents or legal guardian, who has assumed the status and
24 obligation of a parent without being awarded the legal custody of a
25 juvenile by a court.
- 26 (11) Judge. – Any district court judge.
- 27 (12) Judicial district. – Any district court district as established by G.S. 7A-
28 133.
- 29 (13) Juvenile. – A person who has not reached the person's eighteenth
30 birthday and is not married, emancipated, or a member of the armed
31 services of the United States.
- 32 (14) Neglected juvenile. – A juvenile who does not receive proper care,
33 supervision, or discipline from the juvenile's parent, guardian,
34 custodian, or caretaker; or who has been abandoned; or who is not
35 provided necessary medical care; or who is not provided necessary
36 remedial care; or who lives in an environment injurious to the juvenile's
37 welfare; or who has been placed for care or adoption in violation of law.
38 In determining whether a juvenile is a neglected juvenile, it is relevant
39 whether that juvenile lives in a home where another juvenile has been
40 subjected to abuse or neglect by an adult who regularly lives in the
41 home.

1 When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until
2 terminated by order of the court, until the juvenile reaches the age of 18 years, or is
3 otherwise emancipated.

4 "ARTICLE 3.

5 "Screening of Abuse and Neglect Complaints.

6 **"§ 7B-300. Protective services.**

7 The director of the department of social services in each county of the State shall
8 establish protective services for juveniles alleged to be abused, neglected, or dependent.

9 Protective services shall include the investigation and screening of complaints,
10 casework, or other counseling services to parents or other caretakers as provided by the
11 director to help the parents or other caretakers and the court to prevent abuse or neglect,
12 to improve the quality of child care, to be more adequate parents or caretakers, and to
13 preserve and stabilize family life.

14 The provisions of this Article shall also apply to child care facilities as defined in G.S.
15 110-86.

16 **"§ 7B-301. Duty to report abuse, neglect, dependency, or death due to**
17 **maltreatment.**

18 Any person or institution who has cause to suspect that any juvenile is abused,
19 neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of
20 maltreatment, shall report the case of that juvenile to the director of the department of
21 social services in the county where the juvenile resides or is found. The report may be
22 made orally, by telephone, or in writing. The report shall include information as is
23 known to the person making it including the name and address of the juvenile; the name
24 and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the
25 names and ages of other juveniles in the home; the present whereabouts of the juvenile if
26 not at the home address; the nature and extent of any injury or condition resulting from
27 abuse, neglect, or dependency; and any other information which the person making the
28 report believes might be helpful in establishing the need for protective services or court
29 intervention. If the report is made orally or by telephone, the person making the report
30 shall give the person's name, address, and telephone number. Refusal of the person
31 making the report to give a name shall not preclude the department's investigation of the
32 alleged abuse, neglect, dependency, or death as a result of maltreatment.

33 Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the
34 director shall notify the State Bureau of Investigation within 24 hours or on the next
35 workday. If sexual abuse in a child care facility is not alleged in the initial report, but
36 during the course of the investigation there is reason to suspect that sexual abuse has
37 occurred, the director shall immediately notify the State Bureau of Investigation. Upon
38 notification that sexual abuse may have occurred in a child care facility, the State Bureau
39 of Investigation may form a task force to investigate the report.

40 **"§ 7B-302. Investigation by director; access to confidential information; notification**
41 **of person making the report.**

42 When a report of abuse, neglect, or dependency is received, the director of the
43 department of social services shall make a prompt and thorough investigation in order to

1 ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to
2 the juvenile, in order to determine whether protective services should be provided or the
3 complaint filed as a petition. When the report alleges abuse, the director shall
4 immediately, but no later than 24 hours after receipt of the report, initiate the
5 investigation. When the report alleges neglect or dependency, the director shall initiate
6 the investigation within 72 hours following receipt of the report. The investigation and
7 evaluation shall include a visit to the place where the juvenile resides. All information
8 received by the department of social services, including the identity of the reporter, shall
9 be held in strictest confidence by the department.

10 When a report of suspected abuse, neglect, or dependency of a juvenile is received,
11 the director of the department of social services shall immediately ascertain if other
12 juveniles remain in the home, and, if so, initiate an investigation in order to determine
13 whether they require protective services or whether immediate removal of the juveniles
14 from the home is necessary for their protection.

15 If the investigation indicates that abuse, neglect, or dependency has occurred, the
16 director shall decide whether immediate removal of the juvenile or any other juveniles in
17 the home is necessary for their protection. If immediate removal does not seem
18 necessary, the director shall immediately provide or arrange for protective services. If the
19 parent or other caretaker refuses to accept the protective services provided or arranged by
20 the director, the director shall sign a complaint seeking to invoke the jurisdiction of the
21 court for the protection of the juvenile or juveniles.

22 If immediate removal seems necessary for the protection of the juvenile or other
23 juveniles in the home, the director shall sign a complaint which alleges the applicable
24 facts to invoke the jurisdiction of the court. Where the investigation shows that it is
25 warranted, a protective services worker may assume temporary custody of the juvenile
26 for the juvenile's protection pursuant to Article 5 of this Chapter.

27 In performing any duties related to the investigation of the complaint or the provision
28 or arrangement for protective services, the director may consult with any public or private
29 agencies or individuals, including the available State or local law enforcement officers
30 who shall assist in the investigation and evaluation of the seriousness of any report of
31 abuse, neglect, or dependency when requested by the director. The director or the
32 director's representative may make a written demand for any information or reports,
33 whether or not confidential, that may in the director's opinion be relevant to the
34 investigation of or the provision for protective services. Upon the director's or the
35 director's representative's request and unless protected by the attorney-client privilege,
36 any public or private agency or individual shall provide access to and copies of this
37 confidential information and these records to the extent permitted by federal law and
38 regulations. If a custodian of criminal investigative information or records believes that
39 release of the information will jeopardize the right of the State to prosecute a defendant
40 or the right of a defendant to receive a fair trial or will undermine an ongoing or future
41 investigation, it may seek an order from a court of competent jurisdiction to prevent
42 disclosure of the information. In such an action, the custodian of the records shall have
43 the burden of showing by a preponderance of the evidence that disclosure of the

1 information in question will jeopardize the right of the State to prosecute a defendant or
2 the right of a defendant to receive a fair trial or will undermine an ongoing or future
3 investigation. Actions brought pursuant to this paragraph shall be set down for immediate
4 hearing, and subsequent proceedings in the actions shall be accorded priority by the trial
5 and appellate courts.

6 Within five working days after receipt of the report of abuse, neglect, or dependency,
7 the director shall give written notice to the person making the report, unless requested by
8 that person not to give notice, as to whether the report was accepted for investigation and
9 whether the report was referred to the appropriate State or local law enforcement agency.

10 Within five working days after completion of the protective services investigation, the
11 director shall give subsequent written notice to the person making the report, unless
12 requested by that person not to give notice, as to whether there is a finding of abuse,
13 neglect, or dependency, whether the county department of social services is taking action
14 to protect the juvenile, and what action it is taking, including whether or not a petition
15 was filed. The person making the report shall be informed of procedures necessary to
16 request a review by the prosecutor of the director's decision not to file a petition. A
17 request for review by the prosecutor shall be made within five working days of receipt of
18 the second notification. The second notification shall include notice that, if the person
19 making the report is not satisfied with the director's decision, the person may request
20 review of the decision by the prosecutor within five working days of receipt. The person
21 making the report may waive the person's right to this notification, and no notification is
22 required if the person making the report does not identify himself to the director.

23 **"§ 7B-303. Interference with investigation.**

24 (a) If any person obstructs or interferes with an investigation required by G.S. 7B-
25 302, the director may file a petition naming said person as respondent and requesting an
26 order directing the respondent to cease such obstruction or interference. The petition
27 shall contain the name and date of birth and address of the juvenile who is the subject of
28 the investigation, shall specifically describe the conduct alleged to constitute obstruction
29 of or interference with the investigation, and shall be verified.

30 (b) For purposes of this section, obstruction of or interference with an
31 investigation means refusing to disclose the whereabouts of the juvenile, refusing to
32 allow the director to have personal access to the juvenile, refusing to allow the director to
33 observe or interview the juvenile in private, refusing to allow the director access to
34 confidential information and records upon request pursuant to G.S. 7B-302, refusing to
35 allow the director to arrange for an evaluation of the juvenile by a physician or other
36 expert, or other conduct that makes it impossible for the director to carry out the duty to
37 investigate.

38 (c) Upon filing of the petition, the court shall schedule a hearing to be held not less
39 than five days after service of the petition and summons on the respondent. Service of
40 the petition and summons and notice of hearing shall be made as provided by the Rules of
41 Civil Procedure on the respondent; the juvenile's parent, guardian, custodian, or
42 caretaker; and any other person determined by the court to be a necessary party. If at the
43 hearing on the petition the court finds by clear, cogent, and convincing evidence that the

1 respondent, without lawful excuse, has obstructed or interfered with an investigation
2 required by G.S. 7B-302, the court may order the respondent to cease such obstruction or
3 interference. The burden of proof shall be on the petitioner.

4 (d) If the director has reason to believe that the juvenile is in need of immediate
5 protection or assistance, the director shall so allege in the petition and may seek an ex
6 parte order from the court. If the court, from the verified petition and any inquiry the
7 court makes of the director, finds probable cause to believe both that the juvenile is at
8 risk of immediate harm and that the respondent is obstructing or interfering with the
9 director's ability to investigate to determine the juvenile's condition, the court may enter
10 an ex parte order directing the respondent to cease such obstruction or interference. The
11 order shall be limited to provisions necessary to enable the director to conduct an
12 investigation sufficient to determine whether the juvenile is in need of immediate
13 protection or assistance. Within 10 days after the entry of an ex parte order under this
14 subsection, a hearing shall be held to determine whether there is good cause for the
15 continuation of the order or the entry of a different order. An order entered under this
16 subsection shall be served on the respondent along with a copy of the petition, summons,
17 and notice of hearing.

18 (e) The director may be required at a hearing under this section to reveal the
19 identity of any person who made a report of suspected abuse, neglect, or dependency as
20 required by G.S. 7B-301.

21 (f) An order entered pursuant to this section is enforceable by civil or criminal
22 contempt as provided in Chapter 5A of the General Statutes.

23 **"§ 7B-304. Evaluation for court.**

24 In all cases in which a petition is filed, the director of the department of social
25 services shall prepare a report for the court containing a home placement plan and a
26 treatment plan deemed by the director to be appropriate to the needs of the juvenile. The
27 report shall be available to the court immediately following the adjudicatory hearing.

28 **"§ 7B-305. Request for review by prosecutor.**

29 The person making the report shall have five working days, from receipt of the
30 decision of the director of the department of social services not to petition the court, to
31 notify the prosecutor that the person is requesting a review. The prosecutor shall notify
32 the person making the report and the director of the time and place for the review, and the
33 director shall immediately transmit to the prosecutor a copy of the investigation report.

34 **"§ 7B-306. Review by prosecutor.**

35 The prosecutor shall review the director's determination that a petition should not be
36 filed within 20 days after the person making the report is notified. The review shall
37 include conferences with the person making the report, the protective services worker, the
38 juvenile, if practicable, and other persons known to have pertinent information about the
39 juvenile or the juvenile's family. At the conclusion of the conferences, the prosecutor
40 may affirm the decision made by the director, may request the appropriate local law
41 enforcement agency to investigate the allegations, or may direct the director to file a
42 petition.

1 **"§ 7B-307. Duty of director to report evidence of abuse, neglect; investigation by**
2 **local law enforcement; notification of Department of Health and Human**
3 **Services and State Bureau of Investigation.**

4 (a) If the director finds evidence that a juvenile may have been abused as defined
5 by G.S. 7B-101, the director shall make an immediate oral and subsequent written report
6 of the findings to the district attorney or the district attorney's designee and the
7 appropriate local law enforcement agency within 48 hours after receipt of the report. The
8 local law enforcement agency shall immediately, but no later than 48 hours after receipt
9 of the information, initiate and coordinate a criminal investigation with the protective
10 services investigation being conducted by the county department of social services.
11 Upon completion of the investigation, the district attorney shall determine whether
12 criminal prosecution is appropriate and may request the director or the director's designee
13 to appear before a magistrate.

14 If the director receives information that a juvenile may have been physically harmed
15 in violation of any criminal statute by any person other than the juvenile's parent,
16 guardian, custodian, or caretaker, the director shall make an immediate oral and
17 subsequent written report of that information to the district attorney or the district
18 attorney's designee and to the appropriate local law enforcement agency within 48 hours
19 after receipt of the information. The local law enforcement agency shall immediately, but
20 no later than 48 hours after receipt of the information, initiate a criminal investigation.
21 Upon completion of the investigation, the district attorney shall determine whether
22 criminal prosecution is appropriate.

23 If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile
24 in child care, the director shall notify the Department of Health and Human Services
25 within 24 hours or on the next working day of receipt of the report.

26 (b) If the director finds evidence that a juvenile has been abused or neglected as
27 defined by G.S. 7B-101 in a child care facility, the director shall immediately so notify
28 the Department of Health and Human Services and, in the case of sexual abuse, the State
29 Bureau of Investigation, in such a way as does not violate the law guaranteeing the
30 confidentiality of the records of the department of social services.

31 (c) Upon completion of the investigation, the director shall give the department
32 written notification of the results of the investigation required by G.S. 7B-302. Upon
33 completion of an investigation of sexual abuse in a child care facility, the director shall
34 also make written notification of the results of the investigation to the State Bureau of
35 Investigation.

36 The director of the department of social services shall submit a report of alleged
37 abuse, neglect, or dependency cases or child fatalities that are the result of alleged
38 maltreatment to the central registry under the policies adopted by the Social Services
39 Commission.

40 **"§ 7B-308. Authority of medical professionals in abuse cases.**

41 (a) Any physician or administrator of a hospital, clinic, or other medical facility to
42 which a suspected abused juvenile is brought for medical diagnosis or treatment shall
43 have the right, when authorized by the chief district court judge of the district or the

1 judge's designee, to retain physical custody of the juvenile in the facility when the
2 physician who examines the juvenile certifies in writing that the juvenile who is
3 suspected of being abused should remain for medical treatment or that, according to the
4 juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's
5 parent, guardian, custodian, or caretaker. This written certification must be signed by the
6 certifying physician and must include the time and date that the judicial authority to
7 retain custody is given. Copies of the written certification must be appended to the
8 juvenile's medical and judicial records and another copy must be given to the juvenile's
9 parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall
10 exist for up to 12 hours from the time and date contained in the written certification.

11 (b) Immediately upon receipt of judicial authority to retain custody, the physician,
12 the administrator, or that person's designee shall so notify the director of social services
13 for the county in which the facility is located. The director shall treat this notification as a
14 report of suspected abuse and shall immediately begin an investigation of the case.

15 (1) If the investigation reveals (i) that it is the opinion of the certifying
16 physician that the juvenile is in need of medical treatment to cure or
17 alleviate physical distress, or to prevent the juvenile from suffering
18 serious physical injury, and (ii) that it is the opinion of the physician
19 that the juvenile should for these reasons remain in the custody of the
20 facility for 12 hours, but (iii) that the juvenile's parent, guardian,
21 custodian, or caretaker cannot be reached or, upon request, will not
22 consent to the treatment within the facility, the director shall within the
23 initial 12-hour period file a juvenile petition alleging abuse and setting
24 forth supporting allegations and shall seek a nonsecure custody order. A
25 petition filed and a nonsecure custody order obtained in accordance with
26 this subdivision shall come on for hearing under the regular provisions
27 of this Subchapter unless the director and the certifying physician
28 together voluntarily dismiss the petition.

29 (2) In all cases except those described in subdivision (1) above, the director
30 shall conduct the investigation and may initiate juvenile proceedings
31 and take all other steps authorized by the regular provisions of this
32 Subchapter. If the director decides not to file a petition, the physician,
33 the administrator, or that person's designee may ask the prosecutor to
34 review this decision according to the provisions of G.S. 7B-305 and
35 G.S. 7B-306.

36 (c) If, upon hearing, the court determines that the juvenile is found in a county
37 other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may
38 be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social
39 services in the county of residence.

40 (d) If the court, upon inquiry, determines that the medical treatment rendered was
41 necessary and appropriate, the cost of that treatment may be charged to the parents,
42 guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of
43 residence in accordance with G.S. 7B-903 and G.S. 7B-904.

1 (e) Except as otherwise provided, a petition begun under this section shall proceed
2 in like manner with petitions begun under G.S. 7B-302.

3 (f) The procedures in this section are in addition to, and not in derogation of, the
4 abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody
5 provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or
6 administrator and a director of social services from following the procedures of G.S. 7B-
7 301 and G.S. 7B-500 whenever these procedures are more appropriate to the juvenile's
8 circumstances.

9 **"§ 7B-309. Immunity of persons reporting and cooperating in an investigation.**

10 Anyone who makes a report pursuant to this Article, cooperates with the county
11 department of social services in a protective services inquiry or investigation, testifies in
12 any judicial proceeding resulting from a protective services report or investigation, or
13 otherwise participates in the program authorized by this Article, is immune from any civil
14 or criminal liability that might otherwise be incurred or imposed for that action provided
15 that the person was acting in good faith. In any proceeding involving liability, good faith
16 is presumed.

17 **"§ 7B-310. Privileges not grounds for failing to report or for excluding evidence.**

18 No privilege shall be grounds for any person or institution failing to report that a
19 juvenile may have been abused, neglected, or dependent, even if the knowledge or
20 suspicion is acquired in an official professional capacity, except when the knowledge or
21 suspicion is gained by an attorney from that attorney's client during representation only in
22 the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege,
23 shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial
24 proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or
25 dependency is in issue nor in any judicial proceeding resulting from a report submitted
26 under this Article, both as this privilege relates to the competency of the witness and to
27 the exclusion of confidential communications.

28 **"§ 7B-311. Central registry.**

29 The Department of Health and Human Services shall maintain a central registry of
30 abuse, neglect, and dependency cases and child fatalities that are the result of alleged
31 maltreatment that are reported under this Article in order to compile data for appropriate
32 study of the extent of abuse and neglect within the State and to identify repeated abuses
33 of the same juvenile or of other juveniles in the same family. This data shall be furnished
34 by county directors of social services to the Department of Health and Human Services
35 and shall be confidential, subject to policies adopted by the Social Services Commission
36 providing for its use for study and research and for other appropriate disclosure. Data
37 shall not be used at any hearing or court proceeding unless based upon a final judgment
38 of a court of law.

39 "ARTICLE 4.

40 "Venue; Petitions.

41 **"§ 7B-400. Venue; pleading.**

42 A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may
43 be commenced in the district in which the juvenile resides or is present. When a

1 proceeding is commenced in a district other than that of the juvenile's residence, the
2 court, on its own motion or upon motion of any party, may transfer the proceeding to the
3 court in the district where the juvenile resides. A transfer under this subsection may be
4 made at any time.

5 **"§ 7B-401. Pleading and process.**

6 The pleading in an abuse, neglect, or dependency action is the petition. The process in
7 an abuse, neglect, or dependency action is the summons.

8 **"§ 7B-402. Petition.**

9 (a) The petition shall contain the name, date of birth, address of the juvenile, the
10 name and last known address of the juvenile's parent, guardian, or custodian and shall
11 allege the facts which invoke jurisdiction over the juvenile. The petition may contain
12 information on more than one juvenile when the juveniles are from the same home and
13 are before the court for the same reason.

14 Sufficient copies of the petition shall be prepared so that copies will be available for
15 each juvenile, each parent if living separate and apart, the guardian ad litem, the social
16 worker, and any person determined by the court to be a necessary party.

17 **"§ 7B-403. Receipt of reports; filing of petition.**

18 (a) All reports concerning a juvenile alleged to be abused, neglected, or dependent
19 shall be referred to the director of the department of social services for screening.
20 Thereafter, if it is determined by the director that a report should be filed as a petition, the
21 petition shall be drawn by the director, verified before an official authorized to administer
22 oaths, and filed by the clerk, recording the date of filing.

23 (b) A decision of the director of social services not to file a report as a petition
24 shall be reviewed by the prosecutor if review is requested pursuant to G.S. 7B-305.

25 **"§ 7B-404. Immediate need for petition when clerk's office is closed.**

26 (a) When the office of the clerk is closed, a magistrate may be authorized by the
27 chief district court judge to draw, verify, and issue petitions as follows:

28 (1) When the director of the department of social services requests a
29 petition alleging a juvenile to be abused, neglected, or dependent, or

30 (2) When the director of the department of social services requests a
31 petition alleging the obstruction of or interference with an investigation
32 required by G.S. 7B-302.

33 (b) The authority of the magistrate under this section is limited to emergency
34 situations when a petition is required in order to obtain a nonsecure custody order or an
35 order under G.S. 7B-303. Any petition issued under this section shall be delivered to the
36 clerk's office for processing as soon as that office is open for business.

37 **"§ 7B-405. Commencement of action.**

38 An action is commenced by the filing of a petition in the clerk's office when that
39 office is open, or by the issuance of a juvenile petition by a magistrate when the clerk's
40 office is closed, which issuance shall constitute filing.

41 **"§ 7B-406. Issuance of summons.**

42 (a) Immediately after a petition has been filed alleging that a juvenile is abused,
43 neglected, or dependent, the clerk shall issue a summons to the parent, guardian,

1 custodian, or caretaker requiring them to appear for a hearing at the time and place stated
2 in the summons. A copy of the petition shall be attached to each summons.

3 (b) A summons shall be on a printed form supplied by the Administrative Office
4 of the Courts and shall include:

5 (1) Notice of the nature of the proceeding;

6 (2) Notice of any right to counsel and information about how to seek the
7 appointment of counsel prior to a hearing;

8 (3) Notice that, if the court determines at the hearing that the allegations of
9 the petition are true, the court will conduct a dispositional hearing to
10 consider the needs of the juvenile and enter an order designed to meet
11 those needs and the objectives of the State; and

12 (4) Notice that the dispositional order or a subsequent order:

13 a. May remove the juvenile from the custody of the parent,
14 guardian, or custodian.

15 b. May require that the juvenile receive medical, psychiatric,
16 psychological, or other treatment and that the parent participate
17 in the treatment.

18 c. May require the parent to undergo psychiatric, psychological, or
19 other treatment or counseling for the purpose of remedying the
20 behaviors or conditions that are alleged in the petition or that
21 contributed to the removal of the juvenile from the custody of the
22 parent.

23 d. May order the parent to pay for treatment that is ordered for the
24 juvenile or the parent.

25 (c) The summons shall advise the parent that upon service, jurisdiction over the
26 parent is obtained and that failure to comply with any order of the court pursuant to G.S.
27 7B-904 may cause the court to issue a show cause order for contempt.

28 (d) A summons shall be directed to the person summoned to appear and shall be
29 delivered to any person authorized to serve process.

30 **"§ 7B-407. Service of summons.**

31 The summons shall be personally served upon the parent, guardian, custodian, or
32 caretaker, and the juvenile or counsel or guardian ad litem, not less than five days prior to
33 the date of the scheduled hearing. The time for service may be waived in the discretion of
34 the court.

35 If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot
36 be found by a diligent effort, the court may authorize service of the summons and petition
37 by mail or by publication. The cost of the service by publication shall be advanced by the
38 petitioner and may be charged as court costs as the court may direct.

39 If the parent, guardian, custodian, or caretaker is personally served as herein provided
40 and fails without reasonable cause to appear and to bring the juvenile before the court, the
41 parent, guardian, custodian, or caretaker may be proceeded against as for contempt of
42 court.

43 "ARTICLE 5.

1 "Temporary Custody; Nonsecure Custody; Custody Hearings.

2 **"§ 7B-500. Taking a juvenile into temporary custody.**

3 Temporary custody means the taking of physical custody and providing personal care
4 and supervision until a court order for nonsecure custody can be obtained. A juvenile
5 may be taken into temporary custody without a court order by a law enforcement officer
6 or a department of social services worker if there are reasonable grounds to believe that
7 the juvenile is abused, neglected, or dependent and that the juvenile would be injured or
8 could not be taken into custody if it were first necessary to obtain a court order. If a
9 department of social services worker takes a juvenile into temporary custody under this
10 section, the worker may arrange for the placement, care, supervision, and transportation
11 of the juvenile.

12 **"§ 7B-501. Duties of person taking juvenile into temporary custody.**

13 (a) A person who takes a juvenile into custody without a court order under G.S.
14 7B-500 shall proceed as follows:

- 15 (1) Notify the juvenile's parent, guardian, custodian, or caretaker that the
16 juvenile has been taken into temporary custody and advise the parent,
17 guardian, custodian, or caretaker of the right to be present with the
18 juvenile until a determination is made as to the need for nonsecure
19 custody. Failure to notify the parent that the juvenile is in custody shall
20 not be grounds for release of the juvenile.
- 21 (2) Release the juvenile to the juvenile's parent, guardian, custodian, or
22 caretaker if the person having the juvenile in temporary custody decides
23 that continued custody is unnecessary.
- 24 (3) The person having temporary custody shall communicate with the
25 director of the department of social services who shall consider
26 prehearing diversion. If the decision is made to file a petition, the
27 director shall contact the judge or person delegated authority pursuant to
28 G.S. 7B-502 for a determination of the need for continued custody.

29 (b) A juvenile taken into temporary custody under this Article shall not be held for
30 more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday,
31 Sunday, or legal holiday, unless:

- 32 (1) A petition or motion for review has been filed by the director of the
33 department of social services, and
- 34 (2) An order for nonsecure custody has been entered by the court.

35 **"§ 7B-502. Authority to issue custody orders; delegation.**

36 In the case of any juvenile alleged to be within the jurisdiction of the court, the court
37 may order that the juvenile be placed in nonsecure custody pursuant to criteria set out in
38 G.S. 7B-503 when custody of the juvenile is necessary.

39 Any district court judge shall have the authority to issue nonsecure custody orders
40 pursuant to G.S. 7B-503. The chief district court judge may delegate the court's authority
41 to persons other than district court judges by administrative order which shall be filed in
42 the office of the clerk of superior court. The administrative order shall specify which

1 persons shall be contacted for approval of a nonsecure custody order pursuant to G.S. 7B-
2 503.

3 **"§ 7B-503. Criteria for nonsecure custody.**

4 When a request is made for nonsecure custody, the court shall first consider release of
5 the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible
6 adult. An order for nonsecure custody shall be made only when there is a reasonable
7 factual basis to believe the matters alleged in the petition are true, and

8 (1) The juvenile has been abandoned; or

9 (2) The juvenile has suffered physical injury or sexual abuse; or

10 (3) The juvenile is exposed to a substantial risk of physical injury or sexual
11 abuse because the parent, guardian, custodian, or caretaker has created
12 the conditions likely to cause injury or abuse or has failed to provide, or
13 is unable to provide, adequate supervision or protection; or

14 (4) The juvenile is in need of medical treatment to cure, alleviate, or
15 prevent suffering serious physical harm which may result in death,
16 disfigurement, or substantial impairment of bodily functions, and the
17 juvenile's parent, guardian, custodian, or caretaker is unwilling or
18 unable to provide or consent to the medical treatment; or

19 (5) The parent, guardian, custodian, or caretaker consents to the nonsecure
20 custody order; or

21 (6) The juvenile is a runaway and consents to nonsecure custody.

22 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure
23 custody only when there is a reasonable factual basis to believe that there is no other
24 reasonable means available to protect the juvenile. In no case shall a juvenile alleged to
25 be abused, neglected, or dependent be placed in secure custody.

26 **"§ 7B-504. Order for nonsecure custody.**

27 The custody order shall be in writing and shall direct a law enforcement officer or
28 other authorized person to assume custody of the juvenile and to make due return on the
29 order. A copy of the order shall be given to the juvenile's parent, guardian, custodian, or
30 caretaker by the official executing the order.

31 An officer receiving an order for custody which is complete and regular on its face
32 may execute it in accordance with its terms. The officer is not required to inquire into the
33 regularity or continued validity of the order and shall not incur criminal or civil liability
34 for its due service.

35 **"§ 7B-505. Place of nonsecure custody.**

36 A juvenile meeting the criteria set out in G.S. 7B-503 may be placed in nonsecure
37 custody with the department of social services or a person designated in the order for
38 temporary residential placement in:

39 (1) A licensed foster home or a home otherwise authorized by law to
40 provide such care; or

41 (2) A facility operated by the department of social services; or

42 (3) Any other home or facility approved by the court and designated in the
43 order.

1 In placing a juvenile in nonsecure custody under this section, the court shall first
2 consider whether a relative of the juvenile is willing and able to provide proper care and
3 supervision of the juvenile in a safe home. If the court finds that the relative is willing
4 and able to provide proper care and supervision in a safe home, then the court shall order
5 placement of the juvenile with the relative. Prior to placement of a juvenile with a
6 relative outside of this State, the placement must be in accordance with the Interstate
7 Compact on the Placement of Children, Article 38 of this Chapter.

8 **"§ 7B-506. Hearing to determine need for continued nonsecure custody.**

9 (a) No juvenile shall be held under a nonsecure custody order for more than seven
10 calendar days without a hearing on the merits or a hearing to determine the need for
11 continued custody. A hearing on nonsecure custody conducted under this subsection may
12 be continued for up to 10 business days with the consent of the juvenile's parent,
13 guardian, custodian, or caretaker and, if appointed, the juvenile's guardian ad litem. In
14 addition, the court may require the consent of additional parties or may schedule the
15 hearing on custody despite a party's consent to a continuance. In every case in which an
16 order has been entered by an official exercising authority delegated pursuant to G.S. 7B-
17 502, a hearing to determine the need for continued custody shall be conducted on the day
18 of the next regularly scheduled session of district court in the city or county where the
19 order was entered if such session precedes the expiration of the applicable time period set
20 forth in this subsection: Provided, that if such session does not precede the expiration of
21 the time period, the hearing may be conducted at another regularly scheduled session of
22 district court in the district where the order was entered.

23 (b) At a hearing to determine the need for continued custody, the court shall
24 receive testimony and shall allow the guardian ad litem, or juvenile, and the juvenile's
25 parent, guardian, custodian, or caretaker an opportunity to introduce evidence, to be heard
26 in the person's own behalf, and to examine witnesses. The State shall bear the burden at
27 every stage of the proceedings to provide clear and convincing evidence that the
28 juvenile's placement in custody is necessary. The court shall not be bound by the usual
29 rules of evidence at such hearings.

30 (c) The court shall be bound by criteria set forth in G.S. 7B-503 in determining
31 whether continued custody is warranted.

32 (d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and
33 should continue in custody, the court shall issue an order to that effect. The order shall be
34 in writing with appropriate findings of fact. The findings of fact shall include the
35 evidence relied upon in reaching the decision and the purposes which continued custody
36 is to achieve.

37 (e) If the court orders at the hearing required in subsection (a) of this section that
38 the juvenile remain in custody, a subsequent hearing on continued custody shall be held
39 within seven business days of that hearing, excluding Saturdays, Sundays, and legal
40 holidays, and pending a hearing on the merits, hearings thereafter shall be held at
41 intervals of no more than 30 calendar days.

1 (f) Hearings conducted under subsection (e) of this section may be waived only
2 with the consent of the juvenile's parent, guardian, custodian, or caretaker, and, if
3 appointed, the juvenile's guardian ad litem.

4 The court may require the consent of additional parties or schedule a hearing despite a
5 party's consent to waiver.

6 (g) Any order authorizing the continued custody of a juvenile shall include
7 findings as to whether reasonable efforts have been made to prevent or eliminate the need
8 for placement of the juvenile in custody and may provide for services or other efforts
9 aimed at returning the juvenile promptly to a safe home. A finding that reasonable efforts
10 have not been made shall not preclude the entry of an order authorizing continued
11 custody when the court finds that continued custody is necessary for the protection of the
12 juvenile. Where efforts to prevent the need for the juvenile's placement were precluded
13 by an immediate threat of harm to the juvenile, the court may find that the placement of
14 the juvenile in the absence of such efforts was reasonable. If the court finds through
15 written findings of fact that efforts to eliminate the need for placement of the juvenile in
16 custody clearly would be futile or would be inconsistent with the juvenile's safety and
17 need for a safe, permanent home within a reasonable period of time, then the court shall
18 specify in its order that reunification efforts are not required or order that reunification
19 efforts cease.

20 (h) At each hearing to determine the need for continued custody, the court shall:

21 (1) Inquire as to the identity and location of any missing parent. The court
22 shall include findings as to the efforts undertaken to locate the missing
23 parent and to serve that parent. The order may provide for specific
24 efforts aimed at determining the identity and location of any missing
25 parent;

26 (2) Inquire as to whether a relative of the juvenile is willing and able to
27 provide proper care and supervision of the juvenile in a safe home. If
28 the court finds that the relative is willing and able to provide proper care
29 and supervision in a safe home, then the court shall order temporary
30 placement of the juvenile with the relative. Prior to placement of a
31 juvenile with a relative outside of this State, the placement must be in
32 accordance with the Interstate Compact on the Placement of Children
33 set forth in Article 38 of this Chapter; and

34 (3) Inquire as to whether there are other juveniles remaining in the home
35 from which the juvenile was removed and, if there are, inquire as to the
36 specific findings of the investigation conducted under G.S. 7B-302 and
37 any actions taken or services provided by the director for the protection
38 of the other juveniles.

39 **"§ 7B-507. Telephonic communication authorized.**

40 All communications, notices, orders, authorizations, and requests authorized or
41 required by G.S. 7B-501, 7B-503, and 7B-504 may be made by telephone when other
42 means of communication are impractical. All written orders pursuant to telephonic
43 communication shall bear the name and the title of the person communicating by

1 telephone, the signature and the title of the official entering the order, and the hour and
2 the date of the authorization.

3 "ARTICLE 6.

4 "Basic Rights.

5 **"§ 7B-600. Appointment of guardian.**

6 In any case when no parent appears in a hearing with the juvenile or when the court
7 finds it would be in the best interests of the juvenile, the court may appoint a guardian of
8 the person for the juvenile. The guardian shall operate under the supervision of the court
9 with or without bond and shall file only such reports as the court shall require. The
10 guardian shall have the care, custody, and control of the juvenile or may arrange a
11 suitable placement for the juvenile and may represent the juvenile in legal actions before
12 any court. The guardian may consent to certain actions on the part of the juvenile in place
13 of the parent including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment
14 in school. The guardian may also consent to any necessary remedial, psychological,
15 medical, or surgical treatment for the juvenile. The authority of the guardian shall
16 continue until the guardianship is terminated by court order, until the juvenile is
17 emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile
18 reaches the age of majority.

19 **"§ 7B-601. Appointment and duties of guardian ad litem.**

20 (a) When in a petition a juvenile is alleged to be abused or neglected, the court
21 shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to
22 be dependent, the court may appoint a guardian ad litem to represent the juvenile. The
23 guardian ad litem and attorney advocate have standing to represent the juvenile in all
24 actions under this Subchapter where they have been appointed. The appointment shall be
25 made pursuant to the program established by Article 12 of this Chapter unless
26 representation is otherwise provided legally made. The appointment shall terminate at the
27 end of two years. The court may reappoint the guardian ad litem pursuant to a showing of
28 good cause upon motion of any party, including the guardian ad litem, or of the court. In
29 every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be
30 appointed in the case in order to assure protection of the juvenile's legal rights through
31 the dispositional phase of the proceedings, and after disposition when necessary to further
32 the best interests of the juvenile. The duties of the guardian ad litem program shall be to
33 make an investigation to determine the facts, the needs of the juvenile, and the available
34 resources within the family and community to meet those needs; to facilitate, when
35 appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at
36 adjudication; to explore options with the court at the dispositional hearing; and to protect
37 and promote the best interests of the juvenile until formally relieved of the responsibility
38 by the court.

39 (b) The court may order the department of social services or the guardian ad litem
40 to conduct follow-up investigations to ensure that the orders of the court are being
41 properly executed and to report to the court when the needs of the juvenile are not being
42 met. The court may also authorize the guardian ad litem to accompany the juvenile to

1 court in any criminal action wherein the juvenile may be called on to testify in a matter
2 relating to abuse.

3 (c) The court may grant the guardian ad litem the authority to demand any
4 information or reports, whether or not confidential, that may in the guardian ad litem's
5 opinion be relevant to the case. Neither the physician-patient privilege nor the husband-
6 wife privilege may be invoked to prevent the guardian ad litem and the court from
7 obtaining such information. The confidentiality of the information or reports shall be
8 respected by the guardian ad litem and no disclosure of any information or reports shall
9 be made to anyone except by order of the court or unless otherwise provided by law.

10 **"§ 7B-602. Parent's right to counsel.**

11 In cases where the juvenile petition alleges that a juvenile is abused, neglected, or
12 dependent, the parent has the right to counsel and to appointed counsel in cases of
13 indigency unless the parent waives the right. In no case may the court appoint a county
14 attorney, prosecutor, or public defender.

15 **"§ 7B-603. Payment of court-appointed attorney or guardian ad litem.**

16 An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 or G.S. 7B-602
17 pursuant to any other provision of the Juvenile Code shall be paid a reasonable fee fixed
18 by the court in the same manner as fees for attorneys appointed in cases of indigency or
19 by direct engagement for specialized guardian ad litem services through the
20 Administrative Office of the Courts. The court may require payment of the attorney or
21 guardian ad litem fee from a person other than the juvenile as provided in G.S. 7A-450.1,
22 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the
23 fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or
24 dependency proceeding unless the juvenile has been adjudicated to be abused, neglected,
25 or dependent, or, in a proceeding to terminate parental rights, unless the parent's rights
26 have been terminated. A person who does not comply with the court's order of payment
27 may be punished for contempt as provided in G.S. 5A-21.

28 "ARTICLE 7.

29 "Discovery.

30 **"§ 7B-700. Regulation of discovery; protective orders.**

31 (a) Upon written motion of a party and a finding of good cause, the court may at
32 any time order that discovery be denied, restricted, or deferred.

33 (b) The court may permit a party seeking relief under subsection (a) of this section
34 to submit supporting affidavits or statements to the court for in camera inspection. If,
35 thereafter, the court enters an order granting relief under subsection (a) of this section, the
36 material submitted in camera must be available to the Court of Appeals in the event of an
37 appeal.

38 "ARTICLE 8.

39 "Hearing Procedures.

40 **"§ 7B-800. Amendment of petition.**

41 The court may permit a petition to be amended when the amendment does not change
42 the nature of the offense alleged or the conditions upon which the petition is based.

43 **"§ 7B-801. Adjudicatory hearing.**

1 The adjudicatory hearing shall be held in the district at such time and place as the
2 chief district court judge shall designate. The court may exclude the public from the
3 hearing unless the juvenile moves that the hearing be open, which motion shall be
4 granted.

5 **"§ 7B-802. Conduct of hearing.**

6 The adjudicatory hearing shall be a judicial process designed to adjudicate the
7 existence or nonexistence of any of the conditions alleged in a petition. In the
8 adjudicatory hearing, the court shall protect the following rights of the juvenile and the
9 juvenile's parent to assure due process of law.

10 **"§ 7B-803. Continuances.**

11 The court may, for good cause, continue the hearing for as long as is reasonably
12 required to receive additional evidence, reports, or assessments that the court has
13 requested, or other information needed in the best interests of the juvenile and to allow
14 for a reasonable time for the parties to conduct expeditious discovery. Otherwise,
15 continuances shall be granted only in extraordinary circumstances when necessary for the
16 proper administration of justice or in the best interests of the juvenile.

17 **"§ 7B-804. Rules of evidence.**

18 Where the juvenile is alleged to be abused, neglected, or dependent, the rules of
19 evidence in civil cases shall apply.

20 **"§ 7B-805. Quantum of proof in adjudicatory hearing.**

21 The allegations in a petition alleging abuse, neglect, or dependence shall be proved by
22 clear and convincing evidence.

23 **"§ 7B-806. Record of proceedings.**

24 All adjudicatory and dispositional hearings shall be recorded by stenographic notes or
25 by electronic or mechanical means. Records shall be reduced to a written transcript only
26 when timely notice of appeal has been given. The court may order that other hearings be
27 recorded.

28 **"§ 7B-807. Adjudication.**

29 If the court finds that the allegations in the petition have been proven by clear and
30 convincing evidence, the court shall so state. If the court finds that the allegations have
31 not been proven, the court shall dismiss the petition with prejudice and the juvenile shall
32 be released from nonsecure custody.

33 **"§ 7B-808. Predisposition investigation and report.**

34 The court shall proceed to the dispositional hearing upon receipt of sufficient social,
35 medical, psychiatric, psychological, and educational information. No predisposition
36 report shall be submitted to or considered by the court prior to the completion of the
37 adjudicatory hearing. The court shall permit the guardian ad litem or juvenile to inspect
38 any predisposition report to be considered by the court in making the disposition unless
39 the court determines that disclosure would seriously harm the juvenile's treatment or
40 rehabilitation or would violate a promise of confidentiality. Opportunity to offer evidence
41 in rebuttal shall be afforded the guardian ad litem or juvenile, and the juvenile's parent,
42 guardian, custodian, or caretaker at the dispositional hearing. The court may order
43 counsel not to disclose parts of the report to the guardian ad litem or juvenile, or the

1 juvenile's parent, guardian, custodian, or caretaker if the court finds that disclosure would
2 seriously harm the treatment or rehabilitation of the juvenile or would violate a promise
3 of confidentiality given to a source of information.

4 "ARTICLE 9.

5 "Dispositions.

6 **"§ 7B-900. Purpose.**

7 The purpose of dispositions in juvenile actions is to design an appropriate plan to
8 meet the needs of the juvenile and to achieve the objectives of the State in exercising
9 jurisdiction. If possible, the initial approach should involve working with the juvenile and
10 the juvenile's family in their own home so that the appropriate community resources may
11 be involved in care, supervision, and treatment according to the needs of the juvenile.
12 Thus, the court should arrange for appropriate community-level services to be provided
13 to the juvenile and the juvenile's family in order to strengthen the home situation.

14 **"§ 7B-901. Dispositional hearing.**

15 The dispositional hearing may be informal and the court may consider written reports
16 or other evidence concerning the needs of the juvenile. The juvenile and the juvenile's
17 parent, guardian, custodian, or caretaker shall have an opportunity to present evidence,
18 and they may advise the court concerning the disposition they believe to be in the best
19 interests of the juvenile. The court may exclude the public from the hearing unless the
20 juvenile moves that the hearing be open, which motion shall be granted.

21 **"§ 7B-902. Consent judgment in abuse, neglect, or dependency proceeding.**

22 Nothing in this Article precludes the court from entering a consent order or judgment
23 on a petition for abuse, neglect, or dependency when all parties are present, the juvenile is
24 represented by counsel, and all other parties are either represented by counsel or have
25 waived counsel, and sufficient findings of fact are made by the court.

26 **"§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

27 The following alternatives for disposition shall be available to any court exercising
28 jurisdiction, and the court may combine any of the applicable alternatives when the court
29 finds the disposition to be in the best interests of the juvenile:

30 (1) The court may dismiss the case or continue the case in order to allow
31 the parent or others to take appropriate action.

32 (2) In the case of any juvenile who needs more adequate care or supervision
33 or who needs placement, the court may:

34 a. Require that the juvenile be supervised in the juvenile's own
35 home by the department of social services in the juvenile's
36 county, or by other personnel as may be available to the court,
37 subject to conditions applicable to the parent, guardian,
38 custodian, or caretaker as the court may specify; or

39 b. Place the juvenile in the custody of a parent, relative, private
40 agency offering placement services, or some other suitable
41 person; or

42 c. Place the juvenile in the custody of the department of social
43 services in the county of the juvenile's residence, or in the case of

1 a juvenile who has legal residence outside the State, in the
2 physical custody of the department of social services in the
3 county where the juvenile is found so that agency may return the
4 juvenile to the responsible authorities in the juvenile's home
5 state. The director may, unless otherwise ordered by the court,
6 arrange for, provide, or consent to, needed routine or emergency
7 medical or surgical care or treatment. In the case where the
8 parent is unknown, unavailable, or unable to act on behalf of the
9 juvenile, the director may, unless otherwise ordered by the court,
10 arrange for, provide, or consent to any psychiatric, psychological,
11 educational, or other remedial evaluations or treatment for the
12 juvenile placed by a court or the court's designee in the custody
13 or physical custody of a county department of social services
14 under the authority of this or any other Chapter of the General
15 Statutes. Prior to exercising this authority, the director shall make
16 reasonable efforts to obtain consent from a parent or guardian of
17 the affected juvenile. If the director cannot obtain such consent,
18 the director shall promptly notify the parent or guardian that care
19 or treatment has been provided and shall give the parent frequent
20 status reports on the circumstances of the juvenile. Upon request
21 of a parent or guardian of the affected juvenile, the results or
22 records of the aforementioned evaluations, findings, or treatment
23 shall be made available to such parent or guardian by the director
24 unless prohibited by G.S. 122C-53(d).

25 (3) In any case, the court may order that the juvenile be examined by a
26 physician, psychiatrist, psychologist, or other qualified expert as may be
27 needed for the court to determine the needs of the juvenile:

28 a. Upon completion of the examination, the court shall conduct a
29 hearing to determine whether the juvenile is in need of medical,
30 surgical, psychiatric, psychological, or other treatment and who
31 should pay the cost of the treatment. The county manager, or
32 such person who shall be designated by the chairman of the
33 county commissioners, of the juvenile's residence shall be
34 notified of the hearing, and allowed to be heard. If the court finds
35 the juvenile to be in need of medical, surgical, psychiatric,
36 psychological, or other treatment, the court shall permit the
37 parent or other responsible persons to arrange for treatment. If
38 the parent declines or is unable to make necessary arrangements,
39 the court may order the needed treatment, surgery, or care, and
40 the court may order the parent to pay the cost of the care pursuant
41 to G.S. 7B-904. If the court finds the parent is unable to pay the
42 cost of treatment, the court shall order the county to arrange for
43 treatment of the juvenile and to pay for the cost of the treatment.

1 The county department of social services shall recommend the
2 facility that will provide the juvenile with treatment.

3 b. If the court believes, or if there is evidence presented to the effect
4 that the juvenile is mentally ill or is developmentally disabled,
5 the court shall refer the juvenile to the area mental health,
6 developmental disabilities, and substance abuse services director
7 for appropriate action. A juvenile shall not be committed directly
8 to a State hospital or mental retardation center; and orders
9 purporting to commit a juvenile directly to a State hospital or
10 mental retardation center except for an examination to determine
11 capacity to proceed shall be void and of no effect. The area
12 mental health, developmental disabilities, and substance abuse
13 director shall be responsible for arranging an interdisciplinary
14 evaluation of the juvenile and mobilizing resources to meet the
15 juvenile's needs. If institutionalization is determined to be the
16 best service for the juvenile, admission shall be with the
17 voluntary consent of the parent or guardian. If the parent,
18 guardian, custodian, or caretaker refuses to consent to a mental
19 hospital or retardation center admission after such
20 institutionalization is recommended by the area mental health,
21 developmental disabilities, and substance abuse director, the
22 signature and consent of the court may be substituted for that
23 purpose. In all cases in which a regional mental hospital refuses
24 admission to a juvenile referred for admission by a court and an
25 area mental health, developmental disabilities, and substance
26 abuse director or discharges a juvenile previously admitted on
27 court referral prior to completion of treatment, the hospital shall
28 submit to the court a written report setting out the reasons for
29 denial of admission or discharge and setting out the juvenile's
30 diagnosis, indications of mental illness, indications of need for
31 treatment, and a statement as to the location of any facility
32 known to have a treatment program for the juvenile in question.

33 **"§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or**
34 **dependent.**

35 (a) If the court orders medical, surgical, psychiatric, psychological, or other
36 treatment pursuant to G.S. 7B-903, the court may order the parent or other responsible
37 parties to pay the cost of the treatment or care ordered.

38 (b) At the dispositional hearing or a subsequent hearing in the case of a juvenile
39 who has been adjudicated abused, neglected, or dependent, if the court finds that it is in
40 the best interests of the juvenile for the parent to be directly involved in the juvenile's
41 treatment, the court may order the parent to participate in medical, psychiatric,
42 psychological, or other treatment of the juvenile. The cost of the treatment shall be paid
43 pursuant to G.S. 7B-903.

1 (c) At the dispositional hearing or a subsequent hearing in the case of a juvenile
2 who has been adjudicated abused, neglected, or dependent, the court may determine
3 whether the best interests of the juvenile requires that the parent undergo psychiatric,
4 psychological, or other treatment or counseling directed toward remediating or
5 remedying behaviors or conditions that led to or contributed to the juvenile's adjudication
6 or to the court's decision to remove custody of the juvenile from the parent. If the court
7 finds that the best interests of the juvenile require the parent undergo treatment, it may
8 order the parent to comply with a plan of treatment approved by the court or condition
9 legal custody or physical placement of the juvenile with the parent upon the parent's
10 compliance with the plan of treatment. The court may order the parent to pay the cost of
11 treatment ordered pursuant to this subsection. In cases in which the court has conditioned
12 legal custody or physical placement of the juvenile with the parent upon the parent's
13 compliance with a plan of treatment, the court may charge the cost of the treatment to the
14 county of the juvenile's residence if the court finds the parent is unable to pay the cost of
15 the treatment. In all other cases, if the court finds the parent is unable to pay the cost of
16 the treatment ordered pursuant to this subsection, the court may order the parent to
17 receive treatment currently available from the area mental health program that serves the
18 parent's catchment area.

19 (d) Whenever legal custody of a juvenile is vested in someone other than the
20 juvenile's parent, after due notice to the parent and after a hearing, the court may order
21 that the parent pay a reasonable sum that will cover, in whole or in part, the support of the
22 juvenile after the order is entered. If the court requires the payment of child support, the
23 amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the court
24 places a juvenile in the custody of a county department of social services and if the court
25 finds that the parent is unable to pay the cost of the support required by the juvenile, the
26 cost shall be paid by the county department of social services in whose custody the
27 juvenile is placed, provided the juvenile is not receiving care in an institution owned or
28 operated by the State or federal government or any subdivision thereof.

29 (e) Failure of a parent who is personally served to participate in or comply with
30 this section may result in a civil proceeding for contempt.

31 **"§ 7B-905. Dispositional order.**

32 (a) The dispositional order shall be in writing and shall contain appropriate
33 findings of fact and conclusions of law. The court shall state with particularity, both
34 orally and in the written order of disposition, the precise terms of the disposition
35 including the kind, duration, and the person who is responsible for carrying out the
36 disposition and the person or agency in whom custody is vested.

37 (b) A dispositional order under which a juvenile is removed from the custody of a
38 parent or person standing in loco parentis shall direct that the review hearing required by
39 G.S. 7B-906 be held within six months of the date of the juvenile's placement in custody
40 and, if practicable, shall set the date and time for the review hearing.

41 (c) Any order directing placement of a juvenile in foster care shall also contain:

42 (1) A finding that the juvenile's continuation in or return to the juvenile's
43 home would be contrary to the juvenile's best interests; and

1 (2) Findings as to whether reasonable efforts have been made to prevent or
2 eliminate the need for placement of the juvenile in foster care. A finding
3 that reasonable efforts were not made shall not preclude entry of a
4 dispositional order authorizing placement in foster care when the court
5 finds that such placement is needed for protection of the juvenile. When
6 efforts to prevent the need for the juvenile's placement are precluded by
7 an immediate threat of harm to the juvenile, the court may find that
8 placement of the juvenile in the absence of such efforts is reasonable.

9 The order may provide for services or other efforts aimed at returning the juvenile
10 promptly to a safe home. If the court finds through written findings of fact that efforts to
11 eliminate the need for placement of the juvenile in custody clearly would be futile or
12 would be inconsistent with the juvenile's safety and need for a safe, permanent home
13 within a reasonable period of time, the court shall specify in its order that reunification
14 efforts are not required or order that reunification efforts cease.

15 (d) An order that places a juvenile in the custody of a county department of social
16 services for placement shall specify that the juvenile's placement and care are the
17 responsibility of the county department of social services and that the county department
18 is to provide or arrange for the foster care or other placement of the juvenile.

19 **"§ 7B-906. Review of custody order.**

20 (a) In any case where custody is removed from a parent, the court shall conduct a
21 review within six months of the date the order was entered, shall conduct a second review
22 within six months after the first review, and shall conduct subsequent reviews at least
23 every year thereafter. The director of social services shall make timely requests to the
24 clerk to calendar the case at a session of court scheduled for the hearing of juvenile
25 matters within six months of the date the order was entered. The director shall make
26 timely requests for calendaring subsequent reviews. The clerk shall give 15 days' notice
27 of the review to the parent or the person standing in loco parentis, the juvenile, if 12 years
28 of age or more, the guardian, foster parent, custodian or agency with custody, the
29 guardian ad litem, and any other person the court may specify, indicating the court's
30 impending review.

31 (b) Notwithstanding other provisions of this Article, the court may waive the
32 holding of review hearings required by subsection (a) of this section, may require written
33 reports to the court by the agency or person holding custody in lieu of review hearings, or
34 order that review hearings be held less often than every 12 months, if the court finds by
35 clear, cogent, and convincing evidence that:

36 (1) The juvenile has resided with a relative or has been in the custody of
37 another suitable person for a period of at least one year;

38 (2) The placement is stable and continuation of the placement is in the
39 juvenile's best interests;

40 (3) Neither the juvenile's best interests nor the rights of any party require
41 that review hearings be held every 12 months;

1 (4) All parties are aware that the matter may be brought before the court for
2 review at any time by the filing of a motion for review or on the court's
3 own motion; and

4 (5) The court order has designated the relative or other suitable person as
5 the juvenile's permanent caretaker or guardian of the person.

6 The court may not waive or refuse to conduct a review hearing if a party files a motion
7 seeking the review.

8 (c) At every review hearing, the court shall consider information from the
9 department of social services, the juvenile, the parent or person standing in loco parentis,
10 the custodian, the foster parent, the guardian ad litem, and any public or private agency
11 which will aid it in its review.

12 In each case the court shall consider the following criteria and make written findings
13 regarding those that are relevant:

14 (1) Services which have been offered to reunite the family, or whether
15 efforts to reunite the family clearly would be futile or inconsistent with
16 the juvenile's safety and need for a safe, permanent home within a
17 reasonable period of time.

18 (2) Where the juvenile's return home is unlikely, the efforts which have
19 been made to evaluate or plan for other methods of care.

20 (3) Goals of the foster care placement and the appropriateness of the foster
21 care plan.

22 (4) A new foster care plan, if continuation of care is sought, that addresses
23 the role the current foster parent will play in the planning for the
24 juvenile.

25 (5) Reports on the placements the juvenile has had and any services offered
26 to the juvenile and the parent.

27 (6) When and if termination of parental rights should be considered.

28 (7) Any other criteria the court deems necessary.

29 (d) The court, after making findings of fact, may appoint a guardian of the person
30 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by G.S.
31 7B-903, including the authority to place the juvenile in the custody of either parent or any
32 relative found by the court to be suitable and found by the court to be in the best interests
33 of the juvenile. If the juvenile is placed in or remains in the custody of the department of
34 social services, the court may authorize the department to arrange and supervise a
35 visitation plan. Except for such visitation, the juvenile shall not be returned to the parent
36 or person standing in loco parentis without a hearing at which the court finds sufficient
37 facts to show that the juvenile will receive proper care and supervision. The court may
38 enter an order continuing the placement under review or providing for a different
39 placement as is deemed to be in the best interests of the juvenile. If at any time custody is
40 restored to a parent, the court shall be relieved of the duty to conduct periodic judicial
41 reviews of the placement.

42 (e) At a hearing designated by the court, but at least within 12 months after the
43 juvenile's placement, a review hearing shall be held under this section and designated as a

1 permanency-planning hearing. The purpose of the hearing shall be to develop a plan to
2 achieve a safe, permanent home for the juvenile within a reasonable period of time.
3 Notice of the hearing shall inform the parties of the purpose of the hearing. At the
4 conclusion of the hearing, if the juvenile is not returned home, the court shall make
5 specific findings as to the best plan of care to achieve a safe, permanent home for the
6 juvenile within a reasonable period of time and shall enter an order consistent with those
7 findings.

8 (f) The provisions of subsections (b), (c), and (d) of G.S. 7B-905 shall apply to
9 any order entered under this section which continues the foster care placement of a
10 juvenile.

11 **"§ 7B-907. Posttermination of parental rights' placement court review.**

12 (a) The purpose of each placement review is to ensure that every reasonable effort
13 is being made to provide for a permanent placement plan for the juvenile who has been
14 placed in the custody of a county director or licensed child-placing agency, which is
15 consistent with the juvenile's best interests. At each review hearing the court may
16 consider information from the department of social services, the licensed child-placing
17 agency, the guardian ad litem, the juvenile, the foster parent, and any other person or
18 agency the court determines is likely to aid in the review.

19 (b) The court shall conduct a placement review not later than six months from the
20 date of the termination hearing when parental rights have been terminated by a petition
21 brought by any person or agency designated in G.S. 7B-1102(2) through (5) and a county
22 director or licensed child-placing agency has custody of the juvenile. The court shall
23 conduct reviews every six months until the juvenile is placed for adoption and the
24 adoption petition is filed by the adoptive parents:

25 (1) No more than 30 days and no less than 15 days prior to each review, the
26 clerk shall give notice of the review to the juvenile if the juvenile is at
27 least 12 years of age, the legal custodian of the juvenile, the foster
28 parent, the guardian ad litem, if any, and any other person the court may
29 specify. Only the juvenile, if the juvenile is at least 12 years of age, the
30 legal custodian of the juvenile, the foster parent, and the guardian ad
31 litem shall attend the review hearings, except as otherwise directed by
32 the court.

33 (2) If a guardian ad litem for the juvenile has not been appointed
34 previously by the court in the termination proceeding, the court, at the
35 initial six-month review hearing, may appoint a guardian ad litem to
36 represent the juvenile. The court may continue the case for such time as
37 is necessary for the guardian ad litem to become familiar with the facts
38 of the case.

39 (c) The court shall consider at least the following in its review:

40 (1) The adequacy of the plan developed by the county department of social
41 services or a licensed child-placing agency for a permanent placement
42 relative to the juvenile's best interests and the efforts of the department
43 or agency to implement such plan;

1 (2) Whether the juvenile has been listed for adoptive placement with the
2 North Carolina Adoption Resource Exchange, the North Carolina Photo
3 Adoption Listing Service (PALS), or any other specialized adoption
4 agency; and

5 (3) The efforts previously made by the department or agency to find a
6 permanent home for the juvenile.

7 (d) The court, after making findings of fact, shall affirm the county department's or
8 child-placing agency's plans or require specific additional steps which are necessary to
9 accomplish a permanent placement which is in the best interests of the juvenile.

10 (e) If the juvenile has been placed for adoption prior to the date scheduled for the
11 review, written notice of said placement shall be given to the clerk to be placed in the
12 court file, and the review hearing shall be cancelled with notice of said cancellation given
13 by the clerk to all persons previously notified.

14 (f) The process of selection of specific adoptive parents shall be the responsibility
15 of and within the discretion of the county department of social services or licensed child-
16 placing agency. The guardian ad litem may request information from and consult with
17 the county department or child-placing agency concerning the selection process. If the
18 guardian ad litem requests information about the selection process, the county shall
19 provide the information within five days. Any issue of abuse of discretion by the county
20 department or child-placing agency in the selection process must be raised by the
21 guardian ad litem within 10 days following the date the agency notifies the court and the
22 guardian ad litem in writing of the filing of the adoption petition.

23 **"§ 7B-908. Review of agency's plan for placement.**

24 (a) The director of social services or the director of the licensed private child-
25 placing agency shall promptly notify the clerk to calendar the case for review of the
26 department's or agency's plan for the juvenile at a session of court scheduled for the
27 hearing of juvenile matters in any case where:

28 (1) One parent has surrendered a juvenile for adoption under the provisions
29 of Part 7 of Article 3 of Chapter 48 of the General Statutes and the
30 termination of parental rights proceedings have not been instituted
31 against the nonsurrendering parent within six months of the surrender
32 by the other parent, or

33 (2) Both parents have surrendered a juvenile for adoption under the
34 provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes
35 and that juvenile has not been placed for adoption within six months
36 from the date of the more recent parental surrender.

37 (b) In any case where an adoption is dismissed or withdrawn and the juvenile
38 returns to foster care with a department of social services or a licensed private child-
39 placing agency, then the department of social services or licensed child-placing agency
40 shall notify the clerk, within 30 days from the date the juvenile returns to care, to
41 calendar the case for review of the agency's plan for the child at a session of court
42 scheduled for the hearing of juvenile matters.

1 (c) Notification of the court required under subsection (a) or (b) of this section
2 shall be by a petition for review. The petition shall set forth the circumstances
3 necessitating the review under subsection (a) or (b) of this section. The review shall be
4 conducted within 30 days following the filing of the petition for review unless the court
5 shall otherwise direct. The court shall conduct reviews every six months until the juvenile
6 is placed for adoption and the adoption petition is filed by the adoptive parents. The
7 initial review and all subsequent reviews shall be conducted pursuant to G.S. 7B-907.

8 **"§ 7B-909. Review of voluntary foster care placements.**

9 (a) The court shall review the placement of any juvenile in foster care made
10 pursuant to a voluntary agreement between the juvenile's parents or guardian and a
11 county department of social services and shall make findings from evidence presented at
12 a review hearing with regard to:

13 (1) The voluntariness of the placement;

14 (2) The appropriateness of the placement;

15 (3) Whether the placement is in the best interests of the juvenile; and

16 (4) The services that have been or should be provided to the parents,
17 guardian, foster parents, and juvenile, as the case may be, either (i) to
18 improve the placement or (ii) to eliminate the need for the placement.

19 (b) The court may approve the continued placement of the juvenile in foster care
20 on a voluntary agreement basis, disapprove the continuation of the voluntary placement,
21 or direct the department of social services to petition the court for legal custody if the
22 placement is to continue.

23 (c) An initial review hearing shall be held not more than 180 days after the
24 juvenile's placement and shall be calendared by the clerk for hearing within such period
25 upon timely request by the director of social services. Additional review hearings shall
26 be held at such times as the court shall deem appropriate and shall direct, either upon its
27 own motion or upon written request of the parents, guardian, foster parents, or director of
28 social services. A juvenile placed under a voluntary agreement between the juvenile's
29 parent or guardian and the county department of social services shall not remain in
30 placement more than 12 months without the filing of a petition alleging abuse, neglect, or
31 dependency.

32 (d) The clerk shall give at least 15 days' advance written notice of the initial and
33 subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if 12
34 or more years of age, to the director of social services, and to any other persons whom the
35 court may specify.

36 "ARTICLE 10.

37 "Modification and Enforcement of Dispositional Orders; Appeals.

38 **"§ 7B-1000. Authority to modify or vacate.**

39 (a) Upon motion in the cause or petition, and after notice, the court may conduct a
40 review hearing to determine whether the order of the court is in the best interests of the
41 juvenile, and the court may modify or vacate the order in light of changes in
42 circumstances or the needs of the juvenile.

1 (b) In any case where the court finds the juvenile to be abused, neglected, or
2 dependent, the jurisdiction of the court to modify any order or disposition made in the
3 case shall continue during the minority of the juvenile, until terminated by order of the
4 court, or until the juvenile is otherwise emancipated.

5 **"§ 7B-1001. Right to appeal.**

6 Upon motion of a proper party as defined in G.S. 7B-1002, review of any final order
7 of the court in a juvenile matter under this Article shall be before the Court of Appeals.
8 Notice of appeal shall be given in open court at the time of the hearing or in writing
9 within 10 days after entry of the order. However, if no disposition is made within 60 days
10 after entry of the order, written notice of appeal may be given within 70 days after such
11 entry. A final order shall include:

12 (1) Any order finding absence of jurisdiction;

13 (2) Any order which in effect determines the action and prevents a
14 judgment from which appeal might be taken;

15 (3) Any order of disposition after an adjudication that a juvenile is abused,
16 neglected, or dependent; or

17 (4) Any order modifying custodial rights.

18 **"§ 7B-1002. Proper parties for appeal.**

19 An appeal may be taken by the guardian ad litem, or juvenile, the juvenile's parent,
20 guardian, custodian, or caretaker, or the petitioner. The State's appeal is limited to any
21 final order.

22 **"§ 7B-1003. Disposition pending appeal.**

23 Pending disposition of an appeal, the return of the juvenile to the custody of the
24 parent, guardian, custodian, or caretaker of the juvenile, with or without conditions,
25 should issue in every case unless the court orders otherwise. For compelling reasons
26 which must be stated in writing, the court may enter a temporary order affecting the
27 custody or placement of the juvenile as the court finds to be in the best interests of the
28 juvenile or the State. The provisions of subsections (b), (c), and (d) of G.S. 7B-905 shall
29 apply to any order entered under this section which provides for the placement or
30 continued placement of a juvenile in foster care.

31 **"§ 7B-1004. Disposition after appeal.**

32 Upon the affirmation of the order of adjudication or disposition of the court by the
33 Court of Appeals or by the Supreme Court in the event of an appeal, the court shall have
34 authority to modify or alter the original order of adjudication or disposition as the court
35 finds to be in the best interests of the juvenile to reflect any adjustment made by the
36 juvenile or change in circumstances during the period of time the appeal was pending. If
37 the modifying order is entered ex parte, the court shall give notice to interested parties to
38 show cause within 10 days thereafter as to why the modifying order should be vacated or
39 altered.

40 "ARTICLE 11.

41 "Termination of Parental Rights.

42 **"§ 7B-1100. Legislative intent; construction of Article.**

1 The General Assembly hereby declares as a matter of legislative policy with respect
2 to termination of parental rights:

3 (1) The general purpose of this Article is to provide judicial procedures for
4 terminating the legal relationship between a juvenile and the juvenile's
5 biological or legal parents when the parents have demonstrated that they
6 will not provide the degree of care which promotes the healthy and
7 orderly physical and emotional well-being of the juvenile.

8 (2) It is the further purpose of this Article to recognize the necessity for any
9 juvenile to have a permanent plan of care at the earliest possible age,
10 while at the same time recognizing the need to protect all juveniles from
11 the unnecessary severance of a relationship with biological or legal
12 parents.

13 (3) Action which is in the best interests of the juvenile should be taken in
14 all cases where the interests of the juvenile and those of the juvenile's
15 parents or other persons are in conflict.

16 (4) This Article shall not be used to circumvent the provisions of Chapter
17 50A of the General Statutes, the Uniform Child Custody Jurisdiction
18 Act.

19 **"§ 7B-1101. Jurisdiction.**

20 The court shall have exclusive original jurisdiction to hear and determine any petition
21 relating to termination of parental rights to any juvenile who resides in, is found in, or is
22 in the legal or actual custody of a county department of social services or licensed child-
23 placing agency in the district at the time of filing of the petition. The court shall have
24 jurisdiction to terminate the parental rights of any parent irrespective of the age of the
25 parent. The parent has the right to counsel and to appointed counsel in cases of indigency
26 unless the parent waives the right. The fees of appointed counsel shall be borne by the
27 Administrative Office of the Courts. In addition to the right to appointed counsel set forth
28 above, a guardian ad litem shall be appointed in accordance with the provisions of G.S.
29 1A-1, Rule 17, to represent a parent in the following cases:

30 (1) Where it is alleged that a parent's rights should be terminated pursuant
31 to G.S. 7B-1110(7); or

32 (2) Where the parent is under the age of 18 years.

33 The fees of the guardian ad litem shall be borne by the Administrative Office of the
34 Courts when the court finds that the respondent is indigent. In other cases the fees of the
35 court-appointed guardian ad litem shall be a proper charge against the respondent if the
36 respondent does not secure private legal counsel. Provided, that before exercising
37 jurisdiction under this Article, the court shall find that it would have jurisdiction to make
38 a child-custody determination under the provisions of G.S. 50A-3. Provided, further, that
39 the clerk of superior court shall have jurisdiction for adoptions under the provisions of
40 G.S. 48-2-100 and Chapter 48 of the General Statutes generally.

41 **"§ 7B-1102. Who may petition.**

42 A petition to terminate the parental rights of either or both parents to his, her, or their
43 minor juvenile may only be filed by:

- 1 (1) Either parent seeking termination of the right of the other parent; or
- 2 (2) Any person who has been judicially appointed as the guardian of the
- 3 person of the juvenile; or
- 4 (3) Any county department of social services, consolidated county human
- 5 services agency, or licensed child-placing agency to whom custody of
- 6 the juvenile has been given by a court of competent jurisdiction; or
- 7 (4) Any county department of social services, consolidated county human
- 8 services agency, or licensed child-placing agency to which the juvenile
- 9 has been surrendered for adoption by one of the parents or by the
- 10 guardian of the person of the juvenile, pursuant to G.S. 48-9(a)(1); or
- 11 (5) Any person with whom the juvenile has resided for a continuous period
- 12 of two years or more next preceding the filing of the petition; or
- 13 (6) Any guardian ad litem appointed to represent the minor juvenile
- 14 pursuant to G.S. 7B-601 who has not been relieved of this responsibility
- 15 and who has served in this capacity for at least one continuous year; or
- 16 (7) Any person who has filed a petition for adoption pursuant to Chapter 48
- 17 of the General Statutes.

18 **"§ 7B-1103. Petition.**

19 The petition shall be verified by the petitioner and shall be entitled 'In Re (last name

20 of juvenile)', a minor juvenile; and shall set forth such of the following facts as are

21 known; and with respect to the facts which are unknown the petitioner shall so state:

- 22 (1) The name of the juvenile as it appears on the juvenile's birth certificate,
- 23 the date and place of birth, and the county where the juvenile is
- 24 presently residing.
- 25 (2) The name and address of the petitioner and facts sufficient to identify
- 26 the petitioner as one entitled to petition under G.S. 7B-1102.
- 27 (3) The name and address of the parents of the juvenile. If the name or
- 28 address of one or both parents is unknown to the petitioner, the
- 29 petitioner shall set forth with particularity the petitioner's efforts to
- 30 ascertain the identity or whereabouts of the parent or parents. The
- 31 information may be contained in an affidavit attached to the petition and
- 32 incorporated therein by reference.
- 33 (4) The name and address of any person appointed as guardian of the
- 34 person of the juvenile pursuant to the provisions of Chapter 35A of the
- 35 General Statutes, or of G.S. 7B-600.
- 36 (5) The name and address of any person or agency to whom custody of the
- 37 juvenile has been given by a court of this or any other state; and a copy
- 38 of the custody order shall be attached to the petition.
- 39 (6) Facts that are sufficient to warrant a determination that one or more of
- 40 the grounds for terminating parental rights exist.
- 41 (7) That the petition has not been filed to circumvent the provisions of
- 42 Chapter 50A of the General Statutes, the Uniform Child Custody
- 43 Jurisdiction Act.

1 **"§ 7B-1104. Preliminary hearing; unknown parent.**

2 (a) If either the name or identity of any parent whose parental rights the petitioner
3 seeks to terminate is not known to the petitioner, the court shall, within 10 days from the
4 date of filing of the petition, or during the next term of court in the county where the
5 petition is filed if there is no court in the county in that 10-day period, conduct a
6 preliminary hearing to ascertain the name or identity of such parent.

7 (b) The court may, in its discretion, inquire of any known parent of the juvenile
8 concerning the identity of the unknown parent and may appoint a guardian ad litem for
9 the unknown parent to conduct a diligent search for the parent. Should the court ascertain
10 the name or identity of the parent, it shall enter a finding to that effect; and the parent
11 shall be summoned to appear in accordance with G.S. 7B-1105.

12 (c) Notice of the preliminary hearing need be given only to the petitioner who
13 shall appear at the hearing; but the court may cause summons to be issued to any person
14 directing the person to appear and testify.

15 (d) If the court is unable to ascertain the name or identity of the unknown parent,
16 the court shall order publication of notice of the termination proceeding and shall
17 specifically order the place or places of publication and the contents of the notice which
18 the court concludes is most likely to identify the juvenile to such unknown parent. The
19 notice shall be published in a newspaper qualified for legal advertising in accordance
20 with G.S. 1-597 and G.S. 1-598 and published in the counties directed by the court, once
21 a week for three successive weeks. Provided, further, the notice shall:

22 (1) Designate the court in which the petition is pending;

23 (2) Be directed to 'the father (mother) (father and mother) of a male
24 (female) juvenile born on or aboutin
25 (date)

26County,

27 (city)

28, respondent';

29 (State)

30 (3) Designate the docket number and title of the case (the court may direct
31 the actual name of the title be eliminated and the words 'In Re Doe'
32 substituted therefor);

33 (4) State that a petition seeking to terminate the parental rights of the
34 respondent has been filed;

35 (5) Direct the respondent to answer the petition within 30 days after a date
36 stated in the notice, exclusive of such date, which date so stated shall be
37 the date of first publication of notice and be substantially in the form as
38 set forth in G.S. 1A-1, Rule 4(j1); and

39 (6) State that the respondent's parental rights to the juvenile will be
40 terminated upon failure to answer the petition within the time
41 prescribed.

42 Upon completion of the service, an affidavit of the publisher shall be filed with the
43 court.

1 (e) The court shall issue the order required by subsections (b) and (d) of this
2 section within 30 days from the date of the preliminary hearing unless the court shall
3 determine that additional time for investigation is required.

4 (f) Upon the failure of the parent served by publication pursuant to subsection (d)
5 of this section to answer the petition within the time prescribed, the court shall issue an
6 order terminating all parental rights of the unknown parent.

7 **"§ 7B-1105. Issuance of summons.**

8 (a) Except as provided in G.S. 7B-1104, upon the filing of the petition, the court
9 shall cause a summons to be issued. The summons shall be directed to the following
10 persons or agency, not otherwise a party petitioner, who shall be named as respondents:

- 11 (1) The parents of the juvenile;
- 12 (2) Any person who has been judicially appointed as guardian of the person
13 of the juvenile;
- 14 (3) The custodian of the juvenile appointed by a court of competent
15 jurisdiction;
- 16 (4) Any county department of social services or licensed child-placing
17 agency to whom a juvenile has been released by one parent pursuant to
18 Part 7 of Article 3 of Chapter 48 of the General Statutes; and
- 19 (5) The juvenile, if the juvenile is 12 years of age or older at the time the
20 petition is filed.

21 Provided, no summons need be directed to or served upon any parent who has
22 previously surrendered the juvenile to a county department of social services or licensed
23 child-placing agency nor to any parent who has consented to the adoption of the juvenile
24 by the petitioner. The summons shall notify the respondents to file a written answer
25 within 30 days after service of the summons and petition. Service of the summons shall
26 be completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but
27 the parent of the juvenile shall not be deemed to be under disability even though the
28 parent is a minor.

29 (b) The summons shall be issued for the purpose of terminating parental rights
30 pursuant to the provisions of subsection (a) of this section and shall include:

- 31 (1) The name of the minor juvenile;
- 32 (2) Notice that a written answer to the petition must be filed with the clerk
33 who signed the petition within 30 days after service of the summons and
34 a copy of the petition, or the parent's rights may be terminated;
- 35 (3) Notice that if they are indigent, the parents are entitled to appointed
36 counsel. The parents may contact the clerk immediately to request
37 counsel;
- 38 (4) Notice that this is a new case. Any attorney appointed previously will
39 not represent the parents in this proceeding unless ordered by the court;
- 40 (5) Notice that the date, time, and place of the hearing will be mailed by the
41 clerk upon filing of the answer or 30 days from the date of service if no
42 answer is filed; and

1 (6) Notice of the purpose of the hearing and notice that the parents may
2 attend the termination hearing.

3 **"§ 7B-1106. Failure of respondents to answer.**

4 Upon the failure of the respondents to file written answer to the petition with the court
5 within 30 days after service of the summons and petition, or within the time period
6 established for a defendant's reply by G.S. 1A-1, Rule 4(j1) if service is by publication,
7 the court shall issue an order terminating all parental and custodial rights of the
8 respondent or respondents with respect to the juvenile; provided the court shall order a
9 hearing on the petition and may examine the petitioner or others on the facts alleged in
10 the petition.

11 **"§ 7B-1107. Answer of respondents.**

12 (a) Any respondent may file a written answer to the petition. The answer shall
13 admit or deny the allegations of the petition and shall set forth the name and address of
14 the answering respondent or the respondent's attorney.

15 (b) If an answer denies any material allegation of the petition, the court shall
16 appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile,
17 unless the petition was filed by the guardian ad litem pursuant to G.S. 7B-1102. A
18 licensed attorney shall be appointed to assist those guardians ad litem who are not
19 attorneys licensed to practice in North Carolina. The appointment, duties, and payment of
20 the guardian ad litem shall be the same as in G.S. 7B-601 and G.S. 7B-603. The court
21 shall conduct a special hearing after notice of not less than 10 days nor more than 30 days
22 to the petitioner, the answering respondent, and the guardian ad litem for the juvenile to
23 determine the issues raised by the petition and answer. Notice of the hearing shall be
24 deemed to have been given upon the depositing thereof in the United States mail, first-
25 class postage prepaid, and addressed to the petitioner, respondent, and guardian ad litem
26 or their counsel of record, at the addresses appearing in the petition and responsive
27 pleading.

28 (c) In proceedings under this Article, the appointment of a guardian ad litem shall
29 not be required except, as provided above, in cases in which an answer is filed denying
30 material allegations, or as required under G.S. 7B-1101; but the court may, in its
31 discretion, appoint a guardian ad litem for a juvenile, either before or after determining
32 the existence of grounds for termination of parental rights, in order to assist the court in
33 determining the best interests of the juvenile.

34 (d) If a guardian ad litem has previously been appointed for the juvenile under
35 G.S. 7B-601, and the appointment of a guardian ad litem could also be made under this
36 section, the guardian ad litem appointed under G.S. 7B-601, and any attorney appointed
37 to assist that guardian, shall also represent the juvenile in all proceedings under this
38 Article and shall have the duties and payment of a guardian ad litem appointed under this
39 section, unless the court determines that the best interests of the juvenile require
40 otherwise.

41 **"§ 7B-1108. Adjudicatory hearing on termination.**

1 (a) The hearing on the termination of parental rights shall be conducted by the
2 court sitting without a jury. Reporting of the hearing shall be as provided by G.S. 7A-198
3 for reporting civil trials.

4 (b) The court shall inquire whether the juvenile's parents are present at the hearing
5 and, if so, whether they are represented by counsel. If the parents are not represented by
6 counsel, the court shall inquire whether the parents desire counsel but are indigent. In the
7 event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are
8 unable to obtain counsel to represent them, the court shall appoint counsel to represent
9 them. The court shall grant the parents such an extension of time as is reasonable to
10 permit their appointed counsel to prepare their defense to the termination petition. In the
11 event that the parents do not desire counsel and are present at the hearing, the court shall
12 examine each parent and make findings of fact sufficient to show that the waivers were
13 knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198.

14 (c) The court may, upon finding that reasonable cause exists, order the juvenile to
15 be examined by a psychiatrist, a licensed clinical psychologist, a physician, a public or
16 private agency, or any other expert in order that the juvenile's psychological or physical
17 condition or needs may be ascertained or, in the case of a parent whose ability to care for
18 the juvenile is at issue, the court may order a similar examination of any parent of the
19 juvenile.

20 (d) The court may for good cause shown continue the hearing for such time as is
21 required for receiving additional evidence, any reports or assessments which the court has
22 requested, or any other information needed in the best interests of the juvenile.

23 (e) The court shall take evidence, find the facts, and shall adjudicate the existence
24 or nonexistence of any of the circumstances set forth in G.S. 7B-1110 which authorize
25 the termination of parental rights of the respondent.

26 (f) All findings of fact shall be based on clear, cogent, and convincing evidence.
27 No husband-wife or physician-patient privilege shall be grounds for excluding any
28 evidence regarding the existence or nonexistence of any circumstance authorizing the
29 termination of parental rights.

30 **"§ 7B-1109. Disposition.**

31 (a) Should the court determine that any one or more of the conditions authorizing
32 a termination of the parental rights of a parent exist, the court shall issue an order
33 terminating the parental rights of such parent with respect to the juvenile unless the court
34 shall further determine that the best interests of the juvenile require that the parental
35 rights of the parent not be terminated.

36 (b) Should the court conclude that, irrespective of the existence of one or more
37 circumstances authorizing termination of parental rights, the best interests of the juvenile
38 require that rights should not be terminated, the court shall dismiss the petition, but only
39 after setting forth the facts and conclusions upon which the dismissal is based.

40 (c) Should the court determine that circumstances authorizing termination of
41 parental rights do not exist, the court shall dismiss the petition, making appropriate
42 findings of fact and conclusions.

1 (d) Counsel for the petitioner shall serve a copy of the termination of parental
2 rights order upon the guardian ad litem for the juvenile, if any, and upon the juvenile if
3 the juvenile is 12 years of age or older.

4 (e) The court may tax the cost of the proceeding to any party.

5 **"§ 7B-1110. Grounds for terminating parental rights.**

6 The court may terminate the parental rights upon a finding of one or more of the
7 following:

8 (1) The parent has abused or neglected the juvenile. The juvenile shall be
9 deemed to be abused or neglected if the court finds the juvenile to be an
10 abused juvenile within the meaning of G.S. 7B-101 or a neglected
11 juvenile within the meaning of G.S. 7B-101.

12 (2) The parent has willfully left the juvenile in foster care for more than 12
13 months without showing to the satisfaction of the court that reasonable
14 progress under the circumstances has been made within 12 months in
15 correcting those conditions which led to the removal of the juvenile.
16 Provided, however, that no parental rights shall be terminated for the
17 sole reason that the parents are unable to care for the juvenile on
18 account of their poverty.

19 (3) The burden in such proceedings shall be upon the petitioner to prove the
20 facts justifying such termination by clear and convincing evidence.

21 (4) The juvenile has been placed in the custody of a county department of
22 social services, a licensed child-placing agency, a child-caring
23 institution, or a foster home, and the parent, for a continuous period of
24 six months next preceding the filing of the petition, has willfully failed
25 for such period to pay a reasonable portion of the cost of care for the
26 juvenile although physically and financially able to do so.

27 (5) One parent has been awarded custody of the juvenile by judicial decree
28 or has custody by agreement of the parents, and the other parent whose
29 parental rights are sought to be terminated has for a period of one year
30 or more next preceding the filing of the petition willfully failed without
31 justification to pay for the care, support, and education of the juvenile,
32 as required by said decree or custody agreement.

33 (6) The father of a juvenile born out of wedlock has not, prior to the filing
34 of a petition to terminate parental rights:

35 a. Established paternity judicially or by affidavit which has been
36 filed in a central registry maintained by the Department of Health
37 and Human Services; provided, the court shall inquire of the
38 Department of Health and Human Services as to whether such an
39 affidavit has been so filed and shall incorporate into the case
40 record the Department's certified reply; or

41 b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or
42 filed a petition for this specific purpose; or

1 c. Legitimated the juvenile by marriage to the mother of the
2 juvenile; or

3 d. Provided substantial financial support or consistent care with
4 respect to the juvenile and mother.

5 (7) That the parent is incapable of providing for the proper care and
6 supervision of the juvenile, such that the juvenile is a dependent
7 juvenile within the meaning of G.S. 7B-101, and that there is a
8 reasonable probability that such incapability will continue for the
9 foreseeable future. Incapability under this subdivision may be the result
10 of substance abuse, mental retardation, mental illness, organic brain
11 syndrome, or any other similar cause or condition.

12 (8) The parent has willfully abandoned the juvenile for at least six
13 consecutive months immediately preceding the filing of the petition. For
14 the purpose of this subdivision, a juvenile may be willfully abandoned
15 by the juvenile's natural father if the mother of the juvenile had been
16 willfully abandoned by and was living separate and apart from the father
17 at the time of the juvenile's birth, although the father may not have
18 known of such birth; but in any event the juvenile must be over the age
19 of three months at the time of the filing of the petition.

20 **"§ 7B-1111. Effects of termination order.**

21 An order terminating the parental rights completely and permanently terminates all
22 rights and obligations of the parent to the juvenile and of the juvenile to the parent arising
23 from the parental relationship, except that the juvenile's right of inheritance from the
24 juvenile's parent shall not terminate until a final order of adoption is issued. The parent is
25 not thereafter entitled to notice of proceedings to adopt the juvenile and may not object
26 thereto or otherwise participate therein:

27 (1) If the juvenile had been placed in the custody of or released for adoption
28 by one parent to a county department of social services or licensed
29 child-placing agency and is in the custody of the agency at the time of
30 the filing of the petition, including a petition filed pursuant to G.S. 7B-
31 1102(6), that agency shall, upon entry of the order terminating parental
32 rights, acquire all of the rights for placement of the juvenile as the
33 agency would have acquired had the parent whose rights are terminated
34 released the juvenile to that agency pursuant to the provisions of Part 7
35 of Article 3 of Chapter 48 of the General Statutes, including the right to
36 consent to the adoption of the juvenile.

37 (2) Except as provided in subdivision (1) above, upon entering an order
38 terminating the parental rights of one or both parents, the court may
39 place the juvenile in the custody of the petitioner, or some other suitable
40 person, or in the custody of the department of social services or licensed
41 child-placing agency, as may appear to be in the best interests of the
42 juvenile.

43 **"§ 7B-1112. Appeals; modification of order after affirmation.**

1 Any juvenile, parent, guardian, custodian, caretaker, or agency who is a party to a
2 proceeding under this Article may appeal from an adjudication or any order of disposition
3 to the Court of Appeals, provided that notice of appeal is given in open court at the time
4 of the hearing or in writing within 10 days after the hearing. Pending disposition of an
5 appeal, the court may enter a temporary order affecting the custody or placement of the
6 juvenile as the court finds to be in the best interests of the juvenile or the best interests of
7 the State. Upon the affirmation of the order of adjudication or disposition of the court in a
8 juvenile case by the Court of Appeals, or by the Supreme Court in the event of an appeal,
9 the court shall have authority to modify or alter its original order of adjudication or
10 disposition as the court finds to be in the best interests of the juvenile to reflect any
11 adjustment made by the juvenile or change in circumstances during the period of time
12 the case on appeal was pending, provided that if the modifying order be entered ex parte,
13 the court shall give notice to interested parties to show cause, if any there be, within 10
14 days thereafter, as to why the modifying order should be vacated or altered.

15 "ARTICLE 12.

16 "Guardian ad Litem Program.

17 **"§ 7B-1200. Office of Guardian ad Litem Services established.**

18 There is established within the Administrative Office of the Courts an Office of
19 Guardian ad Litem Services to provide services in accordance with G.S. 7B-601 to
20 abused, neglected, or dependent juveniles involved in judicial proceedings and to assure
21 that all participants in these proceedings are adequately trained to carry out their
22 responsibilities. Each local program shall consist of volunteer guardians ad litem, at least
23 one program attorney, a program coordinator who is a paid State employee, and any
24 clerical staff as the Administrative Office of the Courts in consultation with the local
25 program deems necessary. The Administrative Office of the Courts shall adopt rules and
26 regulations necessary and appropriate for the administration of the program.

27 **"§ 7B-1201. Implementation and administration.**

28 (a) Local Programs. – The Administrative Office of the Courts shall, in
29 cooperation with each chief district court judge and other personnel in the district,
30 implement and administer the program mandated by this Article. Where a local program
31 has not yet been established in accordance with this Article, the district court district shall
32 operate a guardian ad litem program approved by the Administrative Office of the Courts.

33 (b) Advisory Committee Established. – The Director of the Administrative Office
34 of the Courts shall appoint a Guardian ad Litem Advisory Committee consisting of at
35 least five members to advise the Office of Guardian ad Litem Services in matters related
36 to this program. The members of the Advisory Committee shall receive the same per
37 diem and reimbursement for travel expenses as members of State boards and
38 commissions generally.

39 **"§ 7B-1202. Conflict of interest or impracticality of implementation.**

40 If a conflict of interest prohibits a local program from providing representation to an
41 abused, neglected, or dependent juvenile, the court may appoint any member of the
42 district bar to represent the juvenile. If the Administrative Office of the Courts
43 determines that within a particular district court district the implementation of a local

1 program is impractical, or that an alternative plan meets the conditions of G.S. 7B-1203,
2 the Administrative Office of the Courts shall waive the establishment of the program
3 within the district.

4 **"§ 7B-1203. Alternative plans.**

5 A district court district shall be granted a waiver from the implementation of a local
6 program if the Administrative Office of the Courts determines that the following
7 conditions are met:

- 8 (1) An alternative plan has been developed to provide adequate guardian ad
9 litem services for every juvenile consistent with the duties stated in
10 G.S. 7B-601; and
11 (2) The proposed alternative plan will require no greater proportion of State
12 funds than the district court district's abuse and neglect caseload
13 represents to the State's abuse and neglect caseload. Computation of
14 abuse and neglect caseloads shall include such factors as the juvenile
15 population, number of substantiated abuse and neglect reports, number
16 of abuse and neglect petitions, number of abused and neglected
17 juveniles in care to be reviewed pursuant to G.S. 7B-906, nature of the
18 district's district court caseload, and number of petitions to terminate
19 parental rights.

20 When an alternative plan is approved pursuant to this section, the Administrative
21 Office of the Courts shall retain authority to monitor implementation of the said plan in
22 order to assure compliance with the requirements of this Article and G.S. 7B-601. In any
23 district court district where the Administrative Office of the Courts determines that
24 implementation of an alternative plan is not in compliance with the requirements of this
25 section, the Administrative Office of the Courts may implement and administer a
26 program authorized by this Article.

27 **"§ 7B-1204. Civil liability of volunteers.**

28 Any volunteer participating in a judicial proceeding pursuant to the program
29 authorized by this Article shall not be civilly liable for acts or omissions committed in
30 connection with the proceeding if the volunteer acted in good faith and was not guilty of
31 gross negligence.

32 "ARTICLE 13.

33 "Prevention of Abuse and Neglect.

34 **"§ 7B-1300. Purpose.**

35 It is the expressed intent of this Article to make the prevention of abuse and neglect,
36 as defined in G.S. 7B-101, a priority of this State and to establish the Children's Trust
37 Fund as a means to that end.

38 **"§ 7B-1301. Council on Prevention of Abuse and Neglect.**

39 (a) For purposes of implementing this program, the State Board of Education shall
40 designate the Interagency Advisory Council on Community Schools in the Department of
41 Public Instruction as the Advisory Council on Prevention of Child Abuse and Neglect,
42 hereinafter called the Council.

1 (b) Staff and support services for implementing this program shall be provided by
2 the Division of Community Schools in the Department of Public Instruction.

3 (c) In order to carry out the purposes of this Article:

4 (1) The Council shall, with the assistance of the Division of Community
5 Schools, review applications and make recommendations to the State
6 Board of Education concerning the awarding of contracts pursuant to
7 this Article.

8 (2) The State Board of Education shall contract with public or private
9 nonprofit organizations, agencies, schools, or with qualified individuals
10 to operate community-based educational and service programs designed
11 to prevent the occurrence of abuse and neglect. Every contract entered
12 into by the State Board of Education shall contain provisions that at
13 least twenty-five percent (25%) of the total funding required for a
14 program be provided by the administering organization in the form of
15 in-kind or other services and that a mechanism for evaluation of services
16 provided under the contract be included in the services to be performed.
17 In addition, every proposal to the Council for funding pursuant to this
18 Article shall include assurances that the proposal has been forwarded to
19 the local department of social services for comment so that the Council
20 may consider coordination and duplication of effort on the local level as
21 criteria in making recommendations to the State Board of Education.

22 (3) The State Board of Education shall, with the assistance of the Division
23 of Community Schools, develop appropriate guidelines and criteria for
24 awarding contracts pursuant to this Article. These criteria shall include,
25 but not be limited to: documentation of need within the proposed
26 geographical impact area; diversity of geographical areas of programs
27 funded pursuant to this Article; demonstrated effectiveness of the
28 proposed strategy or program for preventing abuse and neglect;
29 reasonableness of implementation plan for achieving stated objectives;
30 utilization of community resources including volunteers; provision for
31 an evaluation component that will provide outcome data; plan for
32 dissemination of the program for implementation in other communities;
33 and potential for future funding from private sources.

34 (4) The State Board of Education shall, with the assistance of the Division
35 of Community Schools, develop guidelines for regular monitoring of
36 contracts awarded pursuant to this Article in order to maximize the
37 investments in prevention programs by the Children's Trust Fund and to
38 establish appropriate accountability measures for administration of
39 contracts.

40 (5) The State Board of Education shall develop a State plan for the
41 prevention of abuse and neglect for submission to the Governor, the
42 President of the Senate, and the Speaker of the House of
43 Representatives.

1 (d) To assist in implementing this Article, the State Board of Education may
2 accept contributions, grants, or gifts in cash or otherwise from persons, associations, or
3 corporations. All moneys received by the State Board of Education from contributions,
4 grants, or gifts and not through appropriation by the legislature shall be deposited in the
5 Children's Trust Fund. Disbursements of the funds shall be on the authorization of the
6 State Board of Education or a duly authorized representative thereof. In order to maintain
7 an effective expenditure and revenue control, such funds shall be subject in all respects to
8 State law and regulations, but no appropriation shall be required to permit expenditure of
9 the funds.

10 **"§ 7B-1302. Programs.**

11 (a) Programs contracted for under this Article are intended to prevent abuse and
12 neglect of juveniles. Abuse and neglect prevention programs are defined to be those
13 programs and services which impact on juveniles and families before any substantiated
14 incident of abuse or neglect has occurred. These programs may include, but are not
15 limited to:

- 16 (1) Community-based educational programs on prenatal care, perinatal
17 bonding, child development, basic child care, care of children with
18 special needs, and coping with family stress; and
19 (2) Community-based programs relating to crisis care, aid to parents, and
20 support groups for parents and their children experiencing stress within
21 the family unit.

22 (b) No more than twenty percent (20%) of each year's total awards may be utilized
23 for funding State-level programs to coordinate community-based programs.

24 **"§ 7B-1303. Children's Trust Fund.**

25 There is established a fund to be known as the 'Children's Trust Fund,' in the
26 Department of State Treasurer, which shall be funded pursuant to G.S. 161-11.1, and
27 which shall be used by the State Board of Education to fund abuse and neglect prevention
28 programs so authorized by this Article.

29 **"ARTICLE 14.**

30 **"North Carolina Child Fatality Prevention System.**

31 **"§ 7B-1400. Declaration of public policy.**

32 The General Assembly finds that it is the public policy of this State to prevent the
33 abuse, neglect, and death of juveniles. The General Assembly further finds that the
34 prevention of the abuse, neglect, and death of juveniles is a community responsibility;
35 that professionals from disparate disciplines have responsibilities for children or juveniles
36 and have expertise that can promote their safety and well-being; and that
37 multidisciplinary reviews of the abuse, neglect, and death of juveniles can lead to a
38 greater understanding of the causes and methods of preventing these deaths. It is,
39 therefore, the intent of the General Assembly, through this Article, to establish a
40 statewide multidisciplinary, multiagency child fatality prevention system consisting of
41 the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-
42 1406. The purpose of the system is to assess the records of selected cases in which
43 children are being served by child protective services and the records of all deaths of

1 children in North Carolina from birth to age 18 in order to (i) develop a communitywide
2 approach to the problem of child abuse and neglect, (ii) understand the causes of
3 childhood deaths, (iii) identify any gaps or deficiencies that may exist in the delivery of
4 services to children and their families by public agencies that are designed to prevent
5 future child abuse, neglect, or death, and (iv) make and implement recommendations for
6 changes to laws, rules, and policies that will support the safe and healthy development of
7 our children and prevent future child abuse, neglect, and death.

8 **"§ 7B-1401. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) Additional Child Fatality. – Any death of a child that did not result from
11 suspected abuse or neglect and about which no report of abuse or
12 neglect had been made to the county department of social services
13 within the previous 12 months.
14 (2) Local Team. – A Community Child Protection Team or a Child Fatality
15 Prevention Team.
16 (3) State Team. – The North Carolina Child Fatality Prevention Team.
17 (4) Task Force. – The North Carolina Child Fatality Task Force.
18 (5) Team Coordinator. – The Child Fatality Prevention Team Coordinator.

19 **"§ 7B-1402. Task Force – creation; membership; vacancies.**

20 (a) There is created the North Carolina Child Fatality Task Force within the
21 Department of Health and Human Services for budgetary purposes only.

22 (b) The Task Force shall be composed of 35 members, 11 of whom shall be ex
23 officio members, four of whom shall be appointed by the Governor, 10 of whom shall be
24 appointed by the Speaker of the House of Representatives, and 10 of whom shall be
25 appointed by the President Pro Tempore of the Senate. The ex officio members other than
26 the Chief Medical Examiner shall be nonvoting members and may designate
27 representatives from their particular departments, divisions, or offices to represent them
28 on the Task Force. The members shall be as follows:

- 29 (1) The Chief Medical Examiner;
30 (2) The Attorney General;
31 (3) The Director of the Division of Social Services;
32 (4) The Director of the State Bureau of Investigation;
33 (5) The Director of the Division of Maternal and Child Health of the
34 Department of Health and Human Services;
35 (6) The Director of the Governor's Youth Advocacy and Involvement
36 Office;
37 (7) The Superintendent of Public Instruction;
38 (8) The Chairman of the State Board of Education;
39 (9) The Director of the Division of Mental Health, Developmental
40 Disabilities, and Substance Abuse Services;
41 (10) The Secretary of the Department of Health and Human Services;
42 (11) The Director of the Administrative Office of the Courts;

- 1 (12) A director of a county department of social services, appointed by the
2 Governor upon recommendation of the President of the North Carolina
3 Association of County Directors of Social Services;
- 4 (13) A representative from a Sudden Infant Death Syndrome counseling and
5 education program, appointed by the Governor upon recommendation of
6 the Director of the Division of Maternal and Child Health of the
7 Department of Health and Human Services;
- 8 (14) A representative from the North Carolina Child Advocacy Institute,
9 appointed by the Governor upon recommendation of the President of the
10 Institute;
- 11 (15) A director of a local department of health, appointed by the Governor
12 upon the recommendation of the President of the North Carolina
13 Association of Local Health Directors;
- 14 (16) A representative from a private group, other than the North Carolina
15 Child Advocacy Institute, that advocates for children, appointed by the
16 Speaker of the House of Representatives upon recommendation of
17 private child advocacy organizations;
- 18 (17) A pediatrician, licensed to practice medicine in North Carolina,
19 appointed by the Speaker of the House of Representatives upon
20 recommendation of the North Carolina Pediatric Society;
- 21 (18) A representative from the North Carolina League of Municipalities,
22 appointed by the Speaker of the House of Representatives upon
23 recommendation of the League;
- 24 (19) Two public members, appointed by the Speaker of the House of
25 Representatives;
- 26 (20) A county or municipal law enforcement officer, appointed by the
27 President Pro Tempore of the Senate upon recommendation of
28 organizations that represent local law enforcement officers;
- 29 (21) A district attorney, appointed by the President Pro Tempore of the
30 Senate upon recommendation of the President of the North Carolina
31 Conference of District Attorneys;
- 32 (22) A representative from the North Carolina Association of County
33 Commissioners, appointed by the President Pro Tempore of the Senate
34 upon recommendation of the Association;
- 35 (23) Two public members, appointed by the President Pro Tempore of the
36 Senate; and
- 37 (24) Five members of the Senate, appointed by the President Pro Tempore of
38 the Senate, and five members of the House of Representatives,
39 appointed by the Speaker of the House of Representatives.

40 (c) All members of the Task Force are voting members. Vacancies in the
41 appointed membership shall be filled by the appointing officer who made the initial
42 appointment. At the first meeting the members shall elect a chair who shall preside for
43 the duration of the Task Force.

"§ 7B-1403. Task Force – duties.

The Task Force shall:

- (1) Undertake a statistical study of the incidences and causes of child deaths in this State during 1988 and 1989 and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;
- (2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing Local Teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;
- (3) Receive and consider reports from the State Team; and
- (4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate.

"§ 7B-1404. State Team – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Prevention Team within the Department of Health and Human Services for budgetary purposes only.

(b) The State Team shall be composed of the following 11 members of whom nine members are ex officio and two are appointed:

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of Health and Human Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services;
- (8) The Director of the Administrative Office of the Courts;
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task Force;

1 (10) A public member, appointed by the Governor; and

2 (11) The Team Coordinator.

3 The ex officio members other than the Chief Medical Examiner may designate a
4 representative from their departments, divisions, or offices to represent them on the State
5 Team.

6 (c) All members of the State Team are voting members. Vacancies in the
7 appointed membership shall be filled by the appointing officer who made the initial
8 appointment.

9 **"§ 7B-1405. State Team – duties.**

10 The State Team shall:

11 (1) Review current deaths of children when those deaths are attributed to
12 child abuse or neglect or when the decedent was reported as an abused
13 or neglected juvenile pursuant to G.S. 7B-301 at any time before death;

14 (2) Report to the Task Force during the existence of the Task Force, in the
15 format and at the time required by the Task Force, on the State Team's
16 activities and its recommendations for changes to any law, rule, and
17 policy that would promote the safety and well-being of children;

18 (3) Upon request of a Local Team, provide technical assistance to the
19 Team;

20 (4) Periodically assess the operations of the multidisciplinary child fatality
21 prevention system and make recommendations for changes as needed;

22 (5) Work with the Team Coordinator to develop guidelines for selecting
23 child deaths to receive detailed, multidisciplinary death reviews by
24 Local Teams that review cases of additional child fatalities; and

25 (6) Receive reports of findings and recommendations from Local Teams
26 that review cases of additional child fatalities and work with the Team
27 Coordinator to implement recommendations.

28 **"§ 7B-1406. Community Child Protection Teams; Child Fatality Prevention Teams;**
29 **creation and duties.**

30 (a) Community Child Protection Teams are established in every county of the
31 State. Each Community Child Protection Team shall:

32 (1) Review, in accordance with the procedures established by the director of
33 the county department of social services under G.S. 7B-1409:

34 a. Selected active cases in which children are being served by child
35 protective services; and

36 b. Cases in which a child died as a result of suspected abuse or
37 neglect, and

38 1. A report of abuse or neglect has been made about the child
39 or the child's family to the county department of social
40 services within the previous 12 months, or

41 2. The child or the child's family was a recipient of child
42 protective services within the previous 12 months.

- 1 (2) Submit annually to the board of county commissioners
2 recommendations, if any, and advocate for system improvements and
3 needed resources where gaps and deficiencies may exist.

4 In addition, each Community Child Protection Team may review the records of all
5 additional child fatalities and report findings in connection with these reviews to the
6 Team Coordinator.

7 (b) Any Community Child Protection Team that determines it will not review
8 additional child fatalities shall notify the Team Coordinator. In accordance with the plan
9 established under G.S. 7B-1408(1), a separate Child Fatality Prevention Team shall be
10 established in that county to conduct these reviews. Each Child Fatality Prevention Team
11 shall:

12 (1) Review the records of all cases of additional child fatalities.

13 (2) Submit annually to the board of county commissioners
14 recommendations, if any, and advocate for system improvements and
15 needed resources where gaps and deficiencies may exist.

16 (3) Report findings in connection with these reviews to the Team
17 Coordinator.

18 (c) All reports to the Team Coordinator under this section shall include:

19 (1) A listing of the system problems identified through the review process
20 and recommendations for preventive actions;

21 (2) Any changes that resulted from the recommendations made by the Local
22 Team;

23 (3) Information about each death reviewed; and

24 (4) Any additional information requested by the Team Coordinator.

25 **"§ 7B-1407. Local Teams; composition.**

26 (a) Each Local Team shall consist of representatives of public and nonpublic
27 agencies in the community that provide services to children and their families and other
28 individuals who represent the community. No single team shall encompass a geographic
29 or governmental area larger than one county.

30 (b) Each Local Team shall consist of the following persons:

31 (1) The director of the county department of social services and a member
32 of the director's staff;

33 (2) A local law enforcement officer, appointed by the board of county
34 commissioners;

35 (3) An attorney from the district attorney's office, appointed by the district
36 attorney;

37 (4) The executive director of the local community action agency, as defined
38 by the Department of Health and Human Services, or the executive
39 director's designee;

40 (5) The superintendent of each local school administrative unit located in
41 the county, or the superintendent's designee;

42 (6) A member of the county board of social services, appointed by the chair
43 of that board;

- 1 (7) A local mental health professional, appointed by the director of the area
2 authority established under Chapter 122C of the General Statutes;
3 (8) The local guardian ad litem coordinator, or the coordinator's designee;
4 (9) The director of the local department of public health; and
5 (10) A local health care provider, appointed by the local board of health.

6 (c) In addition, a Local Team that reviews the records of additional child fatalities
7 shall include the following four additional members:

- 8 (1) An emergency medical services provider or firefighter, appointed by the
9 board of county commissioners;
10 (2) A district court judge, appointed by the chief district judge in that
11 district;
12 (3) A county medical examiner, appointed by the Chief Medical Examiner;
13 (4) A representative of a local child care facility or Head Start program,
14 appointed by the director of the county department of social services;
15 and
16 (5) A parent of a child who died before reaching the child's eighteenth
17 birthday, to be appointed by the board of county commissioners.

18 (d) The Team Coordinator shall serve as an ex officio member of each Local Team
19 that reviews the records of additional child fatalities. The board of county commissioners
20 may appoint a maximum of five additional members to represent county agencies or the
21 community at large to serve on any Local Team. Vacancies on a Local Team shall be
22 filled by the original appointing authority.

23 (e) Each Local Team shall elect a member to serve as chair at the Team's pleasure.

24 (f) Each Local Team shall meet at least four times each year.

25 (g) The director of the local department of social services shall call the first
26 meeting of the Community Child Protection Team. The director of the local department
27 of health, upon consultation with the Team Coordinator, shall call the first meeting of the
28 Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule
29 the time and place of meetings, in consultation with these directors, and shall prepare the
30 agenda. The chair shall schedule Team meetings no less often than once per quarter and
31 often enough to allow adequate review of the cases selected for review. Within three
32 months of election, the chair shall participate in the appropriate training developed under
33 this Article.

34 **"§ 7B-1408. Child Fatality Prevention Team Coordinator; duties.**

35 The Child Fatality Prevention Team Coordinator shall serve as liaison between the
36 State Team and the Local Teams that review records of additional child fatalities and
37 shall provide technical assistance to these Local Teams. The Team Coordinator shall:

- 38 (1) Develop a plan to establish Local Teams that review the records of
39 additional child fatalities in each county.
40 (2) Develop model operating procedures for these Local Teams that address
41 when public meetings should be held, what items should be addressed in
42 public meetings, what information may be released in written reports,
43 and any other information the Team Coordinator considers necessary.

- 1 (3) Provide structured training for these Local Teams at the time of their
2 establishment, and continuing technical assistance thereafter.
- 3 (4) Provide statistical information on all child deaths occurring in each
4 county to the appropriate Local Team, and assure that all child deaths in
5 a county are assessed through the multidisciplinary system.
- 6 (5) Monitor the work of these Local Teams.
- 7 (6) Receive reports of findings, and other reports that the Team Coordinator
8 may require, from these Local Teams.
- 9 (7) Report the aggregated findings of these Local Teams to each Local
10 Team that reviews the records of additional child fatalities and to the
11 State Team.
- 12 (8) Evaluate the impact of local efforts to identify problems and make
13 changes.

14 **"§ 7B-1409. Community Child Protection Teams; duties of the director of the**
15 **county department of social services.**

16 In addition to any other duties as a member of the Community Child Protection Team,
17 and in connection with the reviews under G.S. 7B-1406(a)(1), the director of the county
18 department of social services shall:

- 19 (1) Assure the development of written operating procedures in connection
20 with these reviews, including frequency of meetings, confidentiality
21 policies, training of members, and duties and responsibilities of
22 members;
- 23 (2) Assure that the Team defines the categories of cases that are subject to
24 its review;
- 25 (3) Determine and initiate the cases for review;
- 26 (4) Bring for review any case requested by a Team member;
- 27 (5) Provide staff support for these reviews;
- 28 (6) Maintain records, including minutes of all official meetings, lists of
29 participants for each meeting of the Team, and signed confidentiality
30 statements required under G.S. 7B-1413, in compliance with applicable
31 rules and law; and
- 32 (7) Report quarterly to the county board of social services, or as required by
33 the board, on the activities of the Team.

34 **"§ 7B-1410. Local Teams; duties of the director of the local department of health.**

35 In addition to any other duties as a member of the Local Team and in connection with
36 reviews of additional child fatalities, the director of the local department of health shall:

- 37 (1) Distribute copies of the written procedures developed by the Team
38 Coordinator under G.S. 7B-1408 to the administrators of all agencies
39 represented on the Local Team and to all members of the Local Team;
- 40 (2) Maintain records, including minutes of all official meetings, lists of
41 participants for each meeting of the Local Team, and signed
42 confidentiality statements required under G.S. 7B-1413, in compliance
43 with applicable rules and law;

1 (3) Provide staff support for these reviews; and

2 (4) Report quarterly to the local board of health, or as required by the board,
3 on the activities of the Local Team.

4 **"§ 7B-1411. Community Child Protection Teams; responsibility for training of team**
5 **members.**

6 The Division of Social Services, Department of Health and Human Services, shall
7 develop and make available, on an ongoing basis, for the members of Local Teams that
8 review active cases in which children are being served by child protective services,
9 training materials that address the role and function of the Local Team, confidentiality
10 requirements, an overview of child protective services law and policy, and Team record
11 keeping.

12 **"§ 7B-1412. Task Force – reports.**

13 (a) The Task Force may make a written report to the Governor and General
14 Assembly within one week of the convening of the 1998 Regular Session of the 1997
15 General Assembly. The Task Force shall make a final written report to the Governor and
16 General Assembly within the first week of the convening of the 1999 General Assembly.
17 The final report shall include final conclusions and recommendations for each of the Task
18 Force's duties, as well as any other recommendations for changes to any law, rule, and
19 policy that it has determined will promote the safety and well-being of children. Any
20 recommendations of changes to law, rule, or policy shall be accompanied by specific
21 legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

22 (b) After the Task Force provides its final report to the Governor and General
23 Assembly, the Task Force shall cease to be in existence.

24 **"§ 7B-1413. Access to records.**

25 (a) The State Team, the Local Teams, and the Task Force during its existence,
26 shall have access to all medical records, hospital records, and records maintained by this
27 State, any county, or any local agency as necessary to carry out the purposes of this
28 Article, including police investigations data, medical examiner investigative data, health
29 records, mental health records, and social services records. The State Team, the Task
30 Force, and the Local Teams shall not, as part of the reviews authorized under this Article,
31 contact, question, or interview the child, the parent of the child, or any other family
32 member of the child whose record is being reviewed. Any member of a Local Team may
33 share, only in an official meeting of that Local Team, any information available to that
34 member that the Local Team needs to carry out its duties.

35 (b) Meetings of the State Team and the Local Teams are not subject to the
36 provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local
37 Teams may hold periodic public meetings to discuss, in a general manner not revealing
38 confidential information about children and families, the findings of their reviews and
39 their recommendations for preventive actions. Minutes of all public meetings, excluding
40 those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143
41 of the General Statutes. Any minutes or any other information generated during any
42 closed session shall be sealed from public inspection.

1 (c) All otherwise confidential information and records acquired by the State Team,
2 the Local Teams, and the Task Force during its existence, in the exercise of their duties
3 are confidential; are not subject to discovery or introduction into evidence in any
4 proceedings; and may only be disclosed as necessary to carry out the purposes of the
5 State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential
6 information and records created by a Local Team in the exercise of its duties are
7 confidential; are not subject to discovery or introduction into evidence in any
8 proceedings; and may only be disclosed as necessary to carry out the purposes of the
9 Local Team. No member of the State Team, a Local Team, nor any person who attends a
10 meeting of the State Team or a Local Team, may testify in any proceeding about what
11 transpired at the meeting, about information presented at the meeting, or about opinions
12 formed by the person as a result of the meetings. This subsection shall not, however,
13 prohibit a person from testifying in a civil or criminal action about matters within that
14 person's independent knowledge.

15 (d) Each member of a Local Team and invited participant shall sign a statement
16 indicating an understanding of and adherence to confidentiality requirements, including
17 the possible civil or criminal consequences of any breach of confidentiality.

18 (e) Cases receiving child protective services at the time of review by a Local Team
19 shall have an entry in the child's protective services record to indicate that the case was
20 received by that Team. Additional entry into the record shall be at the discretion of the
21 director of the county department of social services.

22 (f) The Social Services Commission shall adopt rules to implement this section in
23 connection with reviews conducted by Community Child Protection Teams. The Health
24 Services Commission shall adopt rules to implement this section in connection with
25 Local Teams that review additional child fatalities. In particular, these rules shall allow
26 information generated by an executive session of a Local Team to be accessible for
27 administrative or research purposes only.

28 **"§ 7B-1414. Administration; funding.**

29 (a) To the extent of funds available, the chairs of the Task Force and State Team
30 may hire staff or consultants to assist the Task Force and the State Team in completing
31 their duties.

32 (b) Members, staff, and consultants of the Task Force or State Team shall receive
33 travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S.
34 138-6, as the case may be, paid from funds appropriated to implement this Article and
35 within the limits of those funds.

36 (c) With the approval of the Legislative Services Commission, legislative staff and
37 space in the Legislative Building and the Legislative Office Building may be made
38 available to the Task Force.

39 **"SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.**

40 **"ARTICLE 15.**

41 **"Purposes; Definitions.**

42 **"§ 7B-1500. Purpose.**

1 This Subchapter shall be interpreted and construed so as to implement the following
2 purposes and policies:

- 3 (1) To protect the public from acts of delinquency.
4 (2) To deter delinquency and crime, including patterns of repeat offending:
5 a. By providing swift, effective dispositions that emphasize the
6 juvenile offender's accountability for the juvenile's actions; and
7 b. By providing appropriate rehabilitative services to juveniles and
8 their families.
9 (3) To provide an effective system of intake services for the screening and
10 evaluation of complaints and, in appropriate cases, where court
11 intervention is not necessary to ensure public safety, to refer juveniles to
12 community-based resources.
13 (4) To provide uniform procedures that assure fairness and equity; that
14 protect the constitutional rights of juveniles, parents, and victims; and
15 that encourage the court and others involved with juvenile offenders to
16 proceed with all possible speed in making and implementing
17 determinations required by this Subchapter.

18 **"§ 7B-1501. Definitions.**

19 In this Subchapter, unless the context clearly requires otherwise, the following words
20 have the listed meanings:

- 21 (1) Chief court counselor. – The person responsible for administration and
22 supervision of juvenile intake, probation, and post-release supervision in
23 each judicial district, operating under the supervision of the Secretary of
24 the Department of Juvenile Justice.
25 (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy
26 clerk.
27 (3) Community-based program. – A program providing nonresidential or
28 residential treatment to a juvenile under the jurisdiction of the juvenile
29 court in the community where the juvenile's family lives. A
30 community-based program may include specialized foster care, family
31 counseling, shelter care, and other appropriate treatment.
32 (4) Court. – The district court division of the General Court of Justice.
33 (5) Court counselor. – A person responsible for probation and post-release
34 supervision to juveniles under the supervision of the chief court
35 counselor.
36 (6) Custodian. – The person or agency that has been awarded legal custody
37 of a juvenile by a court.
38 (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of
39 age but at least 6 years of age, commits a crime or infraction under State
40 law or under an ordinance of local government, including violation of
41 the motor vehicle laws.
42 (8) Department. – The North Carolina Department of Juvenile Justice.

- 1 (9) Detention. – The secure confinement of a juvenile pursuant to a court
2 order.
- 3 (10) Detention facility. – A facility authorized to provide secure confinement
4 and care for juveniles. Detention facilities include both State and
5 locally administered detention homes, centers, and facilities.
- 6 (11) District. – Any district court district as established by G.S. 7A-133.
- 7 (12) Extended jurisdiction. – Juvenile court jurisdiction, pursuant to a court
8 order, over a person who is at least 18 years of age and has not reached
9 the person's nineteenth birthday.
- 10 (13) Holdover facility. – A place in a jail which has been approved by the
11 Department of Health and Human Services as meeting the State
12 standards for detention as required in G.S. 153A-221 providing close
13 supervision where the juvenile cannot converse with, see, or be seen by
14 the adult population.
- 15 (14) House arrest. – A requirement that the juvenile remain at the juvenile's
16 residence unless the court or the juvenile court counselor authorizes the
17 juvenile to leave for specific purposes such as employment, counseling,
18 a course of study, or vocational training. The juvenile may be required
19 to wear a device that permits the supervising agency to monitor
20 electronically the juvenile's compliance.
- 21 (15) In loco parentis. – A person acting in loco parentis means one, other
22 than parents or legal guardian, who has assumed the status and
23 obligation of a parent without being awarded the legal custody of a
24 juvenile by a court.
- 25 (16) Intake counselor. – A person who screens and evaluates a complaint
26 alleging that a juvenile is delinquent or undisciplined to determine
27 whether the complaint should be filed as a petition.
- 28 (17) Interstate Compact on Juveniles. – An agreement ratified by 50 states
29 and the District of Columbia providing a formal means of returning a
30 juvenile, who is an absconder, escapee, or runaway, to the juvenile's
31 home state, and codified in Article 28 of this Chapter.
- 32 (18) Judge. – Any district court judge.
- 33 (19) Judicial district. – Any district court district as established by G.S. 7A-
34 133.
- 35 (20) Juvenile. – Except as provided in subdivisions (7) and (28) of this
36 section, any person who has not reached the person's eighteenth
37 birthday and is not married, emancipated, or a member of the armed
38 services of the United States. Wherever the term 'juvenile' is used with
39 reference to rights and privileges, that term encompasses the attorney
40 for the juvenile as well.
- 41 (21) Juvenile court. – Any district court exercising jurisdiction pursuant to
42 this Chapter.

- 1 (22) Petitioner. – The individual who initiates court action by the filing of a
2 petition or a motion for review alleging the matter for adjudication.
- 3 (23) Post-release supervision. – The supervision of a juvenile who has been
4 returned to the community after having been committed to the
5 Department of Juvenile Justice.
- 6 (24) Probation. – The status of a juvenile who has been adjudicated
7 delinquent, is subject to specified conditions under the supervision of a
8 court counselor, and may be returned to the court for violation of those
9 conditions during the period of probation.
- 10 (25) Prosecutor. – The district attorney or assistant district attorney assigned
11 by the district attorney to juvenile proceedings.
- 12 (26) Secretary. – The Secretary of the Department of Juvenile Justice.
- 13 (27) Teen court program. – A community resource for the diversion of cases
14 in which a juvenile has allegedly committed certain offenses not
15 involving violence or personal injury for hearing by a jury of the
16 juvenile's peers, which may assign the juvenile to counseling,
17 restitution, curfews, community service, or other rehabilitative
18 measures.
- 19 (28) Undisciplined juvenile. –
20 a. A juvenile who, while less than 16 years of age but at least 6
21 years of age, is unlawfully absent from school; or is regularly
22 disobedient to and beyond the disciplinary control of the
23 juvenile's parent, guardian, or custodian; or is regularly found in
24 places where it is unlawful for a juvenile to be; or has run away
25 from home; or
26 b. A juvenile who is 16 or 17 years of age and who is regularly
27 disobedient to and beyond the disciplinary control of the
28 juvenile's parent, guardian, or custodian; or is regularly found in
29 places where it is unlawful for a juvenile to be; or has run away
30 from home.
- 31 (29) Wilderness program. – A rehabilitative residential treatment program in
32 a rural or outdoor setting.

33 The singular includes the plural, unless otherwise specified.

34 "ARTICLE 16.

35 "Jurisdiction.

36 "**§ 7B-1600. Jurisdiction over undisciplined juveniles.**

37 (a) The court has exclusive, original jurisdiction over any case involving a juvenile
38 who is alleged to be undisciplined. For purposes of determining jurisdiction, the age of
39 the juvenile at the time of the alleged offense governs.

40 (b) When the court obtains jurisdiction over a juvenile under this section,
41 jurisdiction shall continue until terminated by order of the court, the juvenile reaches the
42 age of 18 years, or the juvenile is emancipated.

1 (c) The court has jurisdiction over the parent, guardian, or custodian of a juvenile
2 who is under the jurisdiction of the court pursuant to this section, if the parent, guardian,
3 or custodian has been served with a summons pursuant to G.S. 7B-1805.

4 **"§ 7B-1601. Jurisdiction over delinquent juveniles.**

5 (a) The court has exclusive, original jurisdiction over any case involving a juvenile
6 who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the
7 juvenile at the time of the alleged offense governs.

8 (b) When the court obtains jurisdiction over a juvenile alleged to be delinquent,
9 jurisdiction shall continue until terminated by order of the court or until the juvenile
10 reaches the age of 18 years, except as provided otherwise in this Article.

11 (c) When delinquency proceedings cannot be concluded before the juvenile
12 reaches the age of 18 years, the court retains jurisdiction for the sole purpose of
13 conducting proceedings pursuant to Article 22 of this Chapter and either transferring the
14 case to superior court for trial as an adult or dismissing the petition.

15 (d) When the court has not obtained jurisdiction over a juvenile before the juvenile
16 reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly
17 committed on or after the juvenile's thirteenth birthday and prior to the juvenile's
18 sixteenth birthday, the court has jurisdiction for the sole purpose of conducting
19 proceedings pursuant to Article 22 of this Chapter and either transferring the case to
20 superior court for trial as an adult or dismissing the petition.

21 (e) The court has jurisdiction over delinquent juveniles in the custody of the
22 Department and over proceedings to determine whether a juvenile who is under the post-
23 release supervision of the court counselor has violated the terms of the juvenile's post-
24 release supervision.

25 (f) The court has jurisdiction over persons 18 years of age or older who are under
26 the extended jurisdiction of the juvenile court.

27 (g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile
28 who is under the jurisdiction of the court pursuant to this section if the parent, guardian,
29 or custodian has been served with a summons pursuant to G.S. 7B-1805.

30 **"§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain**
31 **circumstances.**

32 If the court orders that jurisdiction be extended pursuant to G.S. 7B-2513, jurisdiction
33 over a juvenile shall continue after the juvenile reaches the age of 18 years until (i)
34 jurisdiction is terminated by order of the court or (ii) the juvenile reaches the
35 age of 19 years.

36 **"§ 7B-1603. Jurisdiction in certain circumstances.**

37 The court has exclusive original jurisdiction of the following proceedings:

38 (1) Proceedings under the Interstate Compact on the Placement of Children
39 set forth in Article 38 of this Chapter;

40 (2) Proceedings involving judicial consent for emergency surgical or
41 medical treatment for a juvenile when the juvenile's parent, guardian,
42 custodian, or other person standing in loco parentis refuses to consent
43 for treatment to be rendered; and

1 (3) Proceedings to determine whether a juvenile should be emancipated.

2 **"§ 7B-1604. Limitations on juvenile court jurisdiction.**

3 (a) Any juvenile, including a juvenile who is under the jurisdiction of the court,
4 who commits a criminal offense after the juvenile's sixteenth birthday is subject to
5 prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult
6 for the commission of a criminal offense.

7 (b) A juvenile who is transferred to and convicted in superior court shall be
8 prosecuted as an adult for any criminal offense the juvenile commits after the superior
9 court conviction.

10 "ARTICLE 17.

11 "Screening of Delinquency and Undisciplined Complaints.

12 **"§ 7B-1700. Intake services.**

13 The chief court counselor, under the direction of the Secretary, shall establish intake
14 services in each judicial district of the State for all delinquency and undisciplined cases.

15 The purpose of intake services shall be to determine from available evidence whether
16 there are reasonable grounds to believe the facts alleged are true, to determine whether
17 the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of
18 the court, to determine whether the facts alleged are sufficiently serious to warrant court
19 action, and to obtain assistance from community resources when court referral is not
20 necessary. The intake counselor shall not engage in field investigations to substantiate
21 complaints or to produce supplementary evidence but may refer complainants to law
22 enforcement agencies for those purposes.

23 **"§ 7B-1701. Preliminary inquiry.**

24 When a complaint is received, the intake counselor shall make a preliminary
25 determination as to whether the juvenile is within the jurisdiction of the court as a
26 delinquent or undisciplined juvenile. If the intake counselor finds that the facts contained
27 in the complaint do not state a case within the jurisdiction of the court, that legal
28 sufficiency has not been established, or that the matters alleged are frivolous, the intake
29 counselor, without further inquiry, shall refuse authorization to file the complaint as a
30 petition.

31 When requested by the intake counselor, the prosecutor shall assist in determining the
32 sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

33 The intake counselor, without further inquiry, shall authorize the complaint to be filed
34 as a petition if the intake counselor finds reasonable grounds to believe that the juvenile
35 has committed one of the following nondivertible offenses:

36 (1) Murder;

37 (2) First-degree rape or second degree rape;

38 (3) First-degree sexual offense or second degree sexual offense;

39 (4) Arson;

40 (5) Any violation of Article 5, Chapter 90 of the General Statutes that
41 would constitute a felony if committed by an adult;

42 (6) First degree burglary;

43 (7) Crime against nature; or

1 (8) Any felony which involves the willful infliction of serious bodily injury
2 upon another or which was committed by use of a deadly weapon.

3 **"§ 7B-1702. Evaluation.**

4 Upon a finding of legal sufficiency, except in cases involving nondivertible offenses
5 set out in G.S. 7B-1701, the intake counselor shall determine whether a complaint should
6 be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved
7 without further action. In making the decision, the counselor shall consider criteria
8 provided by the Secretary. The intake process shall include the following steps if
9 practicable:

10 (1) Interviews with the complainant and the victim if someone other than
11 the complainant;

12 (2) Interviews with the juvenile and the juvenile's parent, guardian, or
13 custodian;

14 (3) Interviews with persons known to have relevant information about the
15 juvenile or the juvenile's family.

16 Interviews required by this section shall be conducted in person unless it is necessary to
17 conduct them by telephone.

18 **"§ 7B-1703. Evaluation decision.**

19 (a) The intake counselor shall complete evaluation of a complaint within 15 days
20 of receipt of the complaint, with an extension for a maximum of 15 additional days at the
21 discretion of the chief court counselor. The intake counselor shall decide within this time
22 period whether a complaint shall be filed as a juvenile petition.

23 (b) If the intake counselor determines that a complaint should be filed as a petition,
24 the counselor shall file the petition as soon as practicable, but in any event within 15 days
25 after the complaint is received, with an extension for a maximum of 15 additional days at
26 the discretion of the chief court counselor. The intake counselor shall assist the
27 complainant when necessary with the preparation and filing of the petition, shall include
28 on it the date and the words 'Approved for Filing', shall sign it, and shall transmit it to the
29 clerk of superior court.

30 (c) If the intake counselor determines that a petition should not be filed, the intake
31 counselor shall notify the complainant immediately in writing with reasons for the
32 decision and shall include notice of the complainant's right to have the decision reviewed
33 by the prosecutor. The intake counselor shall sign the complaint after indicating on it:

34 (1) The date of the determination;

35 (2) The words 'Not Approved for Filing'; and

36 (3) Whether the matter is 'Closed' or 'Diverted and Retained'.

37 Except as provided in G.S. 7B-1706, any complaint not approved for filing as a
38 juvenile petition shall be destroyed by the intake counselor after holding the complaint
39 for a temporary period to allow review as provided in G.S. 7B-1705.

40 **"§ 7B-1704. Request for review by prosecutor.**

41 The complainant has five calendar days, from receipt of the intake counselor's
42 decision not to approve the filing of a petition, to request review by the prosecutor. The
43 intake counselor shall notify the prosecutor immediately of such request and shall

1 transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the
2 complainant and the intake counselor of the time and place for the review.

3 **"§ 7B-1705. Review of determination that petition should not be filed.**

4 No later than 20 days after the complainant is notified, the prosecutor shall review the
5 intake counselor's determination that a juvenile petition should not be filed. Review shall
6 include conferences with the complainant and the intake counselor. At the conclusion of
7 the review, the prosecutor shall: (i) affirm the decision of the intake counselor or direct
8 the filing of a petition and (ii) notify the complainant of the prosecutor's action.

9 **"§ 7B-1706. Diversion plans and referral.**

10 (a) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon
11 a finding of legal sufficiency the intake counselor may divert the juvenile pursuant to a
12 diversion plan, which may include referring the juvenile to any of the following
13 resources:

14 (1) An appropriate public or private resource;

15 (2) Restitution;

16 (3) Community service;

17 (4) Victim-offender mediation;

18 (5) Regimented physical training;

19 (6) Counseling;

20 (7) A teen court program, as set forth in subsection (c) of this section.

21 As part of a diversion plan, the intake counselor may enter into a diversion contract
22 with the juvenile and the juvenile's parent, guardian, or custodian.

23 (b) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon
24 a finding of legal sufficiency the intake counselor may enter into a diversion contract
25 with the juvenile and the parent, guardian, or custodian; provided, a diversion contract
26 requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A
27 diversion contract shall:

28 (1) State conditions by which the juvenile agrees to abide and any actions
29 the juvenile agrees to take;

30 (2) State conditions by which the parent, guardian, or custodian agrees to
31 abide and any actions the parent, guardian, or custodian agrees to take;

32 (3) Describe the role of the court counselor in relation to the juvenile and
33 the parent, guardian, or custodian;

34 (4) Specify the length of the contract, which shall not exceed six months;

35 (5) Indicate that all parties understand and agree that:

36 a. The juvenile's violation of the contract may result in the filing of
37 the complaint as a petition; and

38 b. The juvenile's successful completion of the contract shall
39 preclude the filing of a petition.

40 After a diversion contract is signed by the parties, the intake counselor shall provide
41 copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian.
42 The intake counselor shall notify any agency or other resource from which the juvenile or
43 the juvenile's parent, guardian, or custodian will be seeking services or treatment

1 pursuant to the terms of the contract. At any time during the term of the contract if the
2 court counselor determines that the juvenile has failed to comply substantially with the
3 terms of the contract, the court counselor shall file the complaint as a petition. Unless the
4 court counselor has filed the complaint as a petition, the counselor shall close the
5 juvenile's file in regard to the diverted matter within six months after the date of the
6 contract.

7 (c) If a teen court program has been established in the district, the intake
8 counselor, upon a finding of legal sufficiency, may refer any case in which a juvenile has
9 allegedly committed an offense that would be an infraction or misdemeanor if committed
10 by an adult to a teen court program. However, the counselor shall not refer a case to a
11 teen court program (i) if the juvenile has been referred to a teen court program
12 previously, or (ii) if the juvenile is alleged to have committed any of the following
13 offenses:

- 14 (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-
15 138.5, or 20-138.7, or any other motor vehicle violation;
16 (2) A Class A1 misdemeanor;
17 (3) An assault in which a weapon is used; or
18 (4) A controlled substance offense under Article 5 of Chapter 90 of the
19 General Statutes, other than simple possession of a Schedule VI drug or
20 alcohol.

21 (d) The intake counselor shall maintain diversion plans and contracts entered into
22 pursuant to this section to allow intake counselors to determine when a juvenile has had a
23 complaint diverted previously. Diversion plans and contracts are not public records
24 under Chapter 132 of the General Statutes, shall not be included in the clerk's record
25 pursuant to G.S. 7B-3000, and shall be withheld from public inspection or examination.
26 Diversion plans and contracts shall be destroyed when the juvenile reaches the age of 18
27 years or when the juvenile is no longer under the jurisdiction of the court, whichever is
28 longer.

29 (e) No later than 60 days after the intake counselor diverts a juvenile, the intake
30 counselor shall determine whether the juvenile and the juvenile's parent, guardian, or
31 custodian have complied with the terms of the diversion plan or contract. In making this
32 determination, the intake counselor shall contact any referral resources to determine
33 whether the juvenile and the juvenile's parent, guardian, or custodian complied with any
34 recommendations for treatment or services made by the resource. If the juvenile and the
35 juvenile's parent, guardian, or custodian have not complied, the intake counselor shall
36 reconsider the decision to divert and may authorize the filing of the complaint as a
37 petition within 10 days after making the determination. If the intake counselor does not
38 file a petition, the intake counselor may continue to monitor the case for up to six months
39 from the date of the diversion plan or contract. At any point during that time period if the
40 juvenile and the juvenile's parent, guardian, or custodian fail to comply, the intake
41 counselor shall reconsider the decision to divert and may authorize the filing of the
42 complaint as a petition. After six months, the intake counselor shall close the diversion
43 plan or contract file.

1 "ARTICLE 18.

2 "Venue; Petition; Summons.

3 **"§ 7B-1800. Venue.**

4 A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be
5 commenced and adjudicated in the district in which the offense is alleged to have
6 occurred. When a proceeding is commenced in a district other than that of the juvenile's
7 residence, the court shall proceed to adjudication in that district. After adjudication, these
8 procedures shall be available to the court:

9 (1) The court may transfer the proceeding to the court in the district where
10 the juvenile resides for disposition.

11 (2) Where the proceeding is not transferred under subdivision (1) of this
12 section, the court shall immediately notify the chief district judge in the
13 district in which the juvenile resides. If the chief district judge requests a
14 transfer within five days after receipt of notification, the court shall
15 transfer the proceeding.

16 (3) Where the proceeding is not transferred under subdivision (1) or (2), the
17 court, upon motion of the juvenile, shall transfer the proceeding to the
18 court in the district where the juvenile resides for disposition. The court
19 shall advise the juvenile of the juvenile's right to transfer under this
20 section.

21 **"§ 7B-1801. Pleading and process.**

22 The pleading in a juvenile action is the petition. The process in a juvenile action is the
23 summons.

24 **"§ 7B-1802. Petition.**

25 The petition shall contain the name, date of birth, and address of the juvenile and the
26 name and last known address of the juvenile's parent, guardian, or custodian. The
27 petition shall allege the facts which invoke jurisdiction over the juvenile. The petition
28 shall not contain information on more than one juvenile.

29 A petition in which delinquency is alleged shall contain a plain and concise statement,
30 without allegations of an evidentiary nature, asserting facts supporting every element of a
31 criminal offense and the juvenile's commission thereof with sufficient precision clearly to
32 apprise the juvenile of the conduct which is the subject of the allegation.

33 Sufficient copies of the petition shall be prepared so that copies will be available for
34 the juvenile, for each parent if living separate and apart, for the court counselor, for the
35 prosecutor, and for any person determined by the court to be a necessary party.

36 **"§ 7B-1803. Receipt of complaints; filing of petition.**

37 (a) All complaints concerning a juvenile alleged to be delinquent or undisciplined
38 shall be referred to the intake counselor for screening and evaluation. Thereafter, if the
39 intake counselor determines that a petition should be filed, the petition shall be drawn by
40 the intake counselor or the clerk, signed by the complainant, and verified before an
41 official authorized to administer oaths. If the circumstances indicate a need for immediate
42 attachment of jurisdiction and if the intake counselor is out of the county or otherwise
43 unavailable to receive a complaint and to draw a petition when it is needed, the clerk

1 shall assist the complainant in communicating the complaint to the intake counselor by
2 telephone and, with the approval of the intake counselor, shall draw a petition and file it
3 when signed and verified. A copy of the complaint and petition shall be transmitted to the
4 intake counselor. Procedures for receiving delinquency and undisciplined complaints and
5 drawing petitions thereon, consistent with this Article and Article 17 of this Chapter shall
6 be established by administrative order of the chief judge in each judicial district.

7 (b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a
8 complaint and any decision of the intake counselor not to authorize that the complaint be
9 filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a
10 petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition,
11 recording the day of filing.

12 **"§ 7B-1804. Commencement of action.**

13 (a) An action is commenced by the filing of a petition in the clerk's office when
14 that office is open, or by a magistrate's acceptance of a petition for filing pursuant to
15 subsection (b) of this section when the clerk's office is closed.

16 (b) When the office of the clerk is closed and an intake counselor requests a
17 petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and
18 verify the petition and accept it for filing, which acceptance shall constitute filing. The
19 magistrate's authority under this subsection is limited to emergency situations when a
20 petition is required in order to obtain a secure or nonsecure custody order. Any petition
21 accepted for filing under this subsection shall be delivered to the clerk's office for
22 processing as soon as that office is open for business.

23 **"§ 7B-1805. Issuance of summons.**

24 (a) Immediately after a petition has been filed alleging that a juvenile is
25 undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the
26 parent, guardian, or custodian requiring them to appear for a hearing at the time and place
27 stated in the summons. A copy of the petition shall be attached to each summons.

28 (b) A summons shall be on a printed form supplied by the Administrative Office
29 of the Courts and shall include:

30 (1) Notice of the nature of the proceeding and the purpose of the hearing
31 scheduled on the summons.

32 (2) Notice of any right to counsel and information about how to seek the
33 appointment of counsel prior to a hearing.

34 (3) Notice that, if the court determines at the adjudicatory hearing that the
35 allegations of the petition are true, the court will conduct a dispositional
36 hearing and will have jurisdiction to enter orders affecting substantial
37 rights of the juvenile and of the parent, guardian, or custodian, including
38 orders that:

39 a. Affect the juvenile's custody;

40 b. Impose conditions on the juvenile;

41 c. Require that the juvenile receive medical, psychiatric,
42 psychological, or other treatment and that the parent, guardian, or
43 custodian participate in the treatment;

- 1 d. Require the parent, guardian, or custodian to undergo psychiatric,
2 psychological, or other treatment or counseling;
3 e. Order the parent to pay for treatment that is ordered for the
4 juvenile or the parent; and
5 f. Order the parent to pay support for the juvenile for any period the
6 juvenile does not reside with the parent or to pay attorneys' fees
7 or other expenses as ordered by the court.

8 (4) Notice that the parent, guardian, or custodian shall be required to attend
9 scheduled hearings and that failure without reasonable cause to attend
10 may result in proceedings for contempt of court.

11 (5) Notice that the parent, guardian, or custodian shall be responsible for
12 bringing the juvenile before the court at any hearing the juvenile is
13 required to attend and that failure without reasonable cause to bring the
14 juvenile before the court may result in proceedings for contempt of
15 court.

16 (c) The summons shall advise the parent, guardian, or custodian that upon service,
17 jurisdiction over the parent, guardian, or custodian is obtained and that failure of the
18 parent, guardian, or custodian to appear or bring the juvenile before the court without
19 reasonable cause or to comply with any order of the court pursuant to Article 27 of this
20 Chapter may cause the court to issue a show cause order for contempt. The summons
21 shall contain the following language in bold type:

22 **'TO THE PARENT, GUARDIAN, OR CUSTODIAN: YOUR FAILURE TO**
23 **APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH**
24 **AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CONTEMPT.'**

25 (d) A summons shall be directed to the person summoned to appear and shall be
26 delivered to any person authorized to serve process.

27 **"§ 7B-1806. Service of summons.**

28 The summons and petition shall be personally served upon the parent, the guardian, or
29 custodian and the juvenile not less than five days prior to the date of the scheduled
30 hearing. The time for service may be waived in the discretion of the court.

31 If the parent, guardian, or custodian entitled to receive a summons cannot be found by
32 a diligent effort, the court may authorize service of the summons and petition by mail or
33 by publication. The cost of the service by publication shall be advanced by the petitioner
34 and may be charged as court costs as the court may direct.

35 The court may issue a show cause order for contempt against a parent, guardian, or
36 custodian who is personally served and fails without reasonable cause to appear and to
37 bring the juvenile before the court.

38 The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply
39 to juvenile process; provided the period of time for return of an unserved summons is 30
40 days.

41 **"§ 7B-1806.1. Notice to parent and juvenile of scheduled hearings.**

1 The clerk shall give to all parties, including both parents of the juvenile, five days
2 written notice of the date and time of all scheduled hearings unless the party is notified in
3 open court or the court orders otherwise.

4 **"§ 7B-1807. First appearance for felony cases.**

5 (a) A juvenile who is alleged in the petition to have committed an offense that
6 would be a felony if committed by an adult shall be summoned to appear before the court
7 for a first appearance within 10 days of the filing of the petition. If the juvenile is in
8 secure or nonsecure custody, the first appearance shall take place at the initial hearing
9 required by G.S. 7B-1906. Unless the juvenile is in secure or nonsecure custody, the
10 court may continue the first appearance to a time certain for good cause.

11 (b) At the first appearance, the court shall:

12 (1) Inform the juvenile of the allegations set forth in the petition;

13 (2) Determine whether the juvenile has retained counsel or has been
14 assigned counsel and, if the juvenile is not represented by counsel,
15 appoint counsel for the juvenile;

16 (3) If applicable, inform the juvenile of the date of the probable cause
17 hearing, which shall be within 15 days of the first appearance; and

18 (4) Inform the parent, guardian, or custodian that the parent, guardian, or
19 custodian is required to attend all hearings scheduled in the matter and
20 may be held in contempt of court for failure to attend any scheduled
21 hearing.

22 "ARTICLE 19.

23 "Temporary Custody; Secure and Nonsecure Custody; Custody Hearings.

24 **"§ 7B-1900. Taking a juvenile into temporary custody.**

25 Temporary custody means the taking of physical custody and providing personal care
26 and supervision until a court order for secure or nonsecure custody can be obtained. A
27 juvenile may be taken into temporary custody without a court order under the following
28 circumstances:

29 (1) By a law enforcement officer if grounds exist for the arrest of an adult
30 in identical circumstances under G.S. 15A-401(b).

31 (2) By a law enforcement officer or a court counselor if there are reasonable
32 grounds to believe that the juvenile is an undisciplined juvenile.

33 (3) By a law enforcement officer, by a court counselor, by a member of the
34 Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile
35 Evaluation Center Joint Security Force established pursuant to G.S.
36 122C-421, or by personnel of the Department if there are reasonable
37 grounds to believe the juvenile is an absconder from any residential
38 facility operated by the Department or from an approved detention
39 facility.

40 **"§ 7B-1901. Duties of person taking juvenile into temporary custody.**

41 (a) A person who takes a juvenile into custody without a court order under G.S.
42 7B-1900(1) or (2) shall proceed as follows:

- 1 (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has
2 been taken into temporary custody and advise the parent, guardian, or
3 custodian of the right to be present with the juvenile until a
4 determination is made as to the need for secure or nonsecure custody.
5 Failure to notify the parent, guardian, or custodian that the juvenile is in
6 custody shall not be grounds for release of the juvenile.
- 7 (2) Release the juvenile to the juvenile's parent, guardian, or custodian if
8 the person having the juvenile in temporary custody decides that
9 continued custody is unnecessary. In the case of a juvenile unlawfully
10 absent from school, if continued custody is unnecessary, the person
11 having temporary custody may deliver the juvenile to the juvenile's
12 school or, if the local city or county government and the local school
13 board adopt a policy, to a place in the local school administrative unit.
- 14 (3) If the juvenile is not released, request that a petition be drawn pursuant
15 to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn
16 and verified, the person shall communicate with the intake counselor. If
17 the intake counselor approves the filing of the petition, the intake
18 counselor shall contact the judge, or the person delegated authority
19 pursuant to G.S. 7B-1902 if other than the intake counselor, for a
20 determination of the need for continued custody.

21 (b) A juvenile taken into temporary custody under this Article shall not be held for
22 more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday,
23 Sunday, or legal holiday, unless a petition or motion for review has been filed and an
24 order for secure or nonsecure custody has been entered.

25 (c) A person who takes a juvenile into custody under G.S. 7B-1900(3), after
26 receiving an order for secure custody, shall transport the juvenile to the nearest approved
27 facility providing secure custody. The person then shall contact the administrator of the
28 facility from which the juvenile absconded, who shall be responsible for returning the
29 juvenile to that facility.

30 **"§ 7B-1902. Authority to issue custody orders; delegation.**

31 In the case of any juvenile alleged to be within the jurisdiction of the court, when the
32 court finds it necessary to place the juvenile in custody, the court may order that the
33 juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-
34 1903.

35 Any district court judge may issue secure and nonsecure custody orders pursuant to
36 G.S. 7B-1903. The chief district court judge may delegate the court's authority to the
37 chief court counselor or the chief court counselor's counseling staff by administrative
38 order filed in the office of the clerk of superior court. The administrative order shall
39 specify which persons may be contacted for approval of a secure or nonsecure custody
40 order. The chief district court judge shall not delegate the court's authority to detain or
41 house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2509.

42 **"§ 7B-1903. Criteria for secure or nonsecure custody.**

1 (a) When a request is made for nonsecure custody, the court shall first consider
2 release of the juvenile to the juvenile's parent, guardian, custodian, or other responsible
3 adult. An order for nonsecure custody shall be made only when there is a reasonable
4 factual basis to believe the matters alleged in the petition are true, and that:

5 (1) The juvenile is a runaway and consents to nonsecure custody; or

6 (2) The juvenile meets one or more of the criteria for secure custody, but
7 the court finds it in the best interests of the juvenile that the juvenile be
8 placed in a nonsecure placement.

9 (b) When a request is made for secure custody, the court may order secure custody
10 only where the court finds there is a reasonable factual basis to believe that the juvenile
11 committed the offense as alleged in the petition, and that:

12 (1) The juvenile is charged with a felony and has demonstrated that the
13 juvenile is a danger to property or persons;

14 (2) The juvenile is charged with a misdemeanor at least one element of
15 which is assault on a person;

16 (3) The juvenile has willfully failed to appear on a pending delinquency
17 charge or on charges of violation of probation or post-release
18 supervision, providing the juvenile was properly notified;

19 (4) A delinquency charge is pending against the juvenile, and there is
20 reasonable cause to believe the juvenile will not appear in court;

21 (5) The juvenile is an absconder from (i) any residential facility operated by
22 the Department or any detention facility in this State or (ii) any
23 comparable facility in another state;

24 (6) There is reasonable cause to believe the juvenile should be detained for
25 the juvenile's own protection because the juvenile has recently suffered
26 or attempted self-inflicted physical injury. In such case, the juvenile
27 must have been refused admission by one appropriate hospital, and the
28 period of secure custody is limited to 24 hours to determine the need for
29 inpatient hospitalization. If the juvenile is placed in secure custody, the
30 juvenile shall receive continuous supervision and a physician shall be
31 notified immediately;

32 (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's
33 being a runaway and is inappropriate for nonsecure custody placement
34 or refuses nonsecure custody, and the court finds that the juvenile needs
35 secure custody for up to 24 hours, excluding Saturdays, Sundays, and
36 State holidays, or where circumstances require, for a period not to
37 exceed 72 hours to evaluate the juvenile's need for medical or
38 psychiatric treatment or to facilitate reunion with the juvenile's parents;
39 or

40 (8) The juvenile is alleged to be undisciplined and has willfully failed to
41 appear in court after proper notice; the juvenile shall be brought to court
42 as soon as possible and in no event should be held more than 24 hours,

1 excluding Saturdays, Sundays, and State holidays or where
2 circumstances require for a period not to exceed 72 hours.

3 (c) When a juvenile has been adjudicated delinquent, the court may order secure
4 custody pending the dispositional hearing or pending placement of the juvenile pursuant
5 to G.S. 7B-2504.

6 (d) The court may order secure custody for a juvenile who is alleged to have
7 violated the conditions of the juvenile's probation or post-release supervision, but only if
8 the juvenile is alleged to have committed acts that damage property or injure persons.

9 (e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this
10 section are met, the court may enter an order directing an officer or other authorized
11 person to assume custody of the juvenile and to take the juvenile to the place designated
12 in the order.

13 **"§ 7B-1904. Order for secure or nonsecure custody.**

14 The custody order shall be in writing and shall direct a law enforcement officer or
15 other authorized person to assume custody of the juvenile and to make due return on the
16 order. The official executing the order shall give a copy of the order to the juvenile's
17 parent, guardian, or custodian. If the order is for secure custody, copies of the petition
18 and custody order shall accompany the juvenile to the detention facility or holdover
19 facility of the jail. A message of the Division of Criminal Information, State Bureau of
20 Investigation, stating that a juvenile petition and secure custody order relating to a
21 specified juvenile are on file in a particular county shall be authority to detain the
22 juvenile in secure custody until a copy of the juvenile petition and secure custody order
23 can be forwarded to the juvenile detention facility. The copies of the juvenile petition and
24 secure custody order shall be transmitted to the detention facility no later than 72 hours
25 after the initial detention of the juvenile.

26 An officer receiving an order for custody which is complete and regular on its face
27 may execute it in accordance with its terms and need not inquire into its regularity or
28 continued validity, nor does the officer incur criminal or civil liability for its execution.

29 **"§ 7B-1905. Place of secure or nonsecure custody.**

30 (a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in
31 nonsecure custody with a department of social services or a person designated in the
32 order for temporary residential placement in:

- 33 (1) A licensed foster home or a home otherwise authorized by law to
34 provide such care;
35 (2) A facility operated by a department of social services; or
36 (3) Any other home or facility approved by the court and designated in the
37 order.

38 In placing a juvenile in nonsecure custody, the court shall first consider whether a
39 relative of the juvenile is willing and able to provide proper care and supervision of the
40 juvenile. If the court finds that the relative is willing and able to provide proper care and
41 supervision, the court shall order placement of the juvenile with the relative. Placement
42 of a juvenile outside of this State shall be in accordance with the Interstate Compact on
43 the Placement of Children set forth in Article 38 of this Chapter.

1 (b) A juvenile meeting the criteria set out in G.S. 7B-1903(b), (c), or (d) may be
2 temporarily detained in an approved detention facility which shall be separate from any
3 jail, lockup, prison, or other adult penal institution, except as provided in subsection (c)
4 of this section. It shall be unlawful for a county or any unit of government to operate a
5 juvenile detention facility unless the facility meets the standards and rules adopted by the
6 Department of Health and Human Services.

7 (c) A juvenile who has allegedly committed an offense that would be a Class A,
8 B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in
9 a holdover facility up to 72 hours, if the court, based on information provided by the
10 court counselor, determines that no acceptable alternative placement is available and the
11 protection of the public requires the juvenile be housed in a holdover facility.

12 **"§ 7B-1906. Secure or nonsecure custody hearings.**

13 (a) No juvenile shall be held under a secure custody order for more than five
14 calendar days or under a nonsecure custody order for more than seven calendar days
15 without a hearing on the merits or an initial hearing to determine the need for continued
16 custody. A hearing conducted under this subsection may not be continued or waived. In
17 every case in which an order has been entered by an official exercising authority
18 delegated pursuant to G.S. 7B-1902, a hearing to determine the need for continued
19 custody shall be conducted on the day of the next regularly scheduled session of district
20 court in the city or county where the order was entered if the session precedes the
21 expiration of the applicable time period set forth in this subsection. If the session does not
22 precede the expiration of the time period, the hearing may be conducted at another
23 regularly scheduled session of district court in the district where the order was entered.

24 (b) As long as the juvenile remains in secure or nonsecure custody, further
25 hearings to determine the need for continued secure custody shall be held at intervals of
26 no more than 10 calendar days. A subsequent hearing on continued nonsecure custody
27 shall be held within seven business days, excluding Saturdays, Sundays, and legal
28 holidays, of the initial hearing required in subsection (a) of this section and hearings
29 thereafter shall be held at intervals of no more than 30 calendar days. In the case of a
30 juvenile alleged to be delinquent, further hearings may be waived only with the consent
31 of the juvenile, through counsel for the juvenile.

32 (c) The court shall determine whether a juvenile who is alleged to be delinquent
33 has retained counsel or has been assigned counsel; and, if the juvenile is not represented
34 by counsel, appoint counsel for the juvenile.

35 (d) At a hearing to determine the need for continued custody, the court shall
36 receive testimony and shall allow the juvenile and the juvenile's parent, guardian, or
37 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to
38 examine witnesses. The State shall bear the burden at every stage of the proceedings to
39 provide clear and convincing evidence that restraints on the juvenile's liberty are
40 necessary and that no less intrusive alternative will suffice. The court shall not be bound
41 by the usual rules of evidence at the hearings.

42 (e) The court shall be bound by criteria set forth in G.S. 7B-1903 in determining
43 whether continued custody is warranted.

1 (f) The court may impose appropriate restrictions on the liberty of a juvenile who
2 is released from secure custody, including:

3 (1) Release on the written promise of the juvenile's parent, guardian, or
4 custodian to produce the juvenile in court for subsequent proceedings;

5 (2) Release into the care of a responsible person or organization;

6 (3) Release conditioned on restrictions on activities, associations, residence,
7 or travel if reasonably related to securing the juvenile's presence in
8 court; or

9 (4) Any other conditions reasonably related to securing the juvenile's
10 presence in court.

11 (g) If the court determines that the juvenile meets the criteria in G.S. 7B-1903 and
12 should continue in custody, the court shall issue an order to that effect. The order shall be
13 in writing with appropriate findings of fact. The findings of fact shall include the
14 evidence relied upon in reaching the decision and the purposes which continued custody
15 is to achieve.

16 (h) The court may conduct a hearing to determine the need to continue custody by
17 audio and video transmission between the court and the juvenile in which the parties can
18 see and hear each other. If the juvenile has counsel, the juvenile may communicate fully
19 and confidentially with the juvenile's attorney during the proceeding. Prior to the use of
20 audio and video transmission, the procedures and type of equipment for audio and video
21 transmission shall be submitted to the Administrative Office of the Courts by the chief
22 district court judge and approved by the Administrative Office of the Courts.

23 **"§ 7B-1907. Telephonic communication authorized.**

24 All communications, notices, orders, authorizations, and requests authorized or
25 required by G.S. 7B-1901, 7B-1903, and 7B-1904 may be made by telephone when other
26 means of communication are impractical. All written orders pursuant to telephonic
27 communication shall bear the name and the title of the person communicating by
28 telephone, the signature and the title of the official entering the order, and the hour and
29 the date of the authorization.

30 **"ARTICLE 20.**

31 **"Basic Rights.**

32 **"§ 7B-2000. Juvenile's right to counsel; presumption of indigence.**

33 (a) A juvenile alleged to be within the jurisdiction of the court has the right to be
34 represented by counsel in all proceedings. The court shall appoint counsel for the
35 juvenile, unless counsel is retained for the juvenile, in any proceeding in which the
36 juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or
37 adjudicated to be undisciplined.

38 (b) All juveniles shall be conclusively presumed to be indigent, and it shall not be
39 necessary for the court to receive from any juvenile an affidavit of indigency.

40 **"§ 7B-2001. Appointment of guardian.**

41 In any case when no parent, guardian, or custodian appears in a hearing with the
42 juvenile or when the court finds it would be in the best interests of the juvenile, the court
43 may appoint a guardian of the person for the juvenile. The guardian shall operate under

1 the supervision of the court with or without bond and shall file only such reports as the
2 court shall require. Unless the court orders otherwise, the guardian:

- 3 (1) Shall have the care, custody, and control of the juvenile or may arrange
4 a suitable placement for the juvenile.
- 5 (2) May represent the juvenile in legal actions before any court.
- 6 (3) May consent to certain actions on the part of the juvenile in place of the
7 parent, guardian, or custodian, including (i) marriage, (ii) enlisting in
8 the armed forces, and (iii) enrollment in school.
- 9 (4) May consent to any necessary remedial, psychological, medical, or
10 surgical treatment for the juvenile.

11 The authority of the guardian shall continue until the guardianship is terminated by court
12 order, until the juvenile is emancipated pursuant to Subchapter IV of this Chapter, or until
13 the juvenile reaches the age of majority.

14 **"§ 7B-2002. Payment of court-appointed attorney.**

15 An attorney appointed pursuant to G.S. 7B-2000 or pursuant to any other provision of
16 this Subchapter shall be paid a reasonable fee fixed by the court in the same manner as
17 fees for attorneys appointed in cases of indigency through the Administrative Office of
18 the Courts. The court may require payment of the attorneys' fees from a person other
19 than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. A person who
20 does not comply with the court's order of payment may be found in civil contempt as
21 provided in G.S. 5A-21.

22 "ARTICLE 21.

23 "Law Enforcement Procedures in Delinquency Proceedings.

24 **"§ 7B-2100. Role of the law enforcement officer.**

25 A law enforcement officer who takes a juvenile into temporary custody should select
26 the most appropriate course of action to the situation, the needs of the juvenile, and the
27 protection of the public safety. The officer may:

- 28 (1) Release the juvenile, with or without first counseling the juvenile;
- 29 (2) Release the juvenile to the juvenile's parent, guardian, or custodian;
- 30 (3) Refer the juvenile to community resources;
- 31 (4) Seek a petition; or
- 32 (5) Seek a petition and request a custody order.

33 **"§ 7B-2101. Interrogation procedures.**

34 (a) Any juvenile in custody must be advised prior to questioning:

- 35 (1) That the juvenile has a right to remain silent;
- 36 (2) That any statement the juvenile does make can be and may be used
37 against the juvenile;
- 38 (3) That the juvenile has a right to have a parent, guardian, or custodian
39 present during questioning; and
- 40 (4) That the juvenile has a right to consult with an attorney and that one will
41 be appointed for the juvenile if the juvenile is not represented and wants
42 representation.

1 (b) When the juvenile is less than 14 years of age, no in-custody admission or
2 confession resulting from interrogation may be admitted into evidence unless the
3 confession or admission was made in the presence of the juvenile's parent, guardian,
4 custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as
5 well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of
6 this section; however, a parent, guardian, or custodian may not waive any right on behalf
7 of the juvenile.

8 (c) If the juvenile indicates in any manner and at any stage of questioning pursuant
9 to this section that the juvenile does not wish to be questioned further, the officer shall
10 cease questioning.

11 (d) Before admitting into evidence any statement resulting from custodial
12 interrogation, the court shall find that the juvenile knowingly, willingly, and
13 understandingly waived the juvenile's rights.

14 **"§ 7B-2102. Fingerprinting and photographing juveniles.**

15 (a) A law enforcement officer or agency may fingerprint and photograph a
16 juvenile in custody who is alleged to have committed an offense that would be a felony if
17 committed by an adult.

18 (b) If a law enforcement officer or agency does not take the fingerprints or a
19 photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or
20 photograph have been destroyed pursuant to subsection (e) of this section, a law
21 enforcement officer or agency shall fingerprint and photograph a juvenile who has been
22 adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile
23 committed an offense that would be a felony if committed by an adult.

24 (c) A law enforcement officer or agency who fingerprints or photographs a
25 juvenile pursuant to this section shall do so in a proper format for transfer to the State
26 Bureau of Investigation and the Federal Bureau of Investigation. Fingerprints obtained
27 pursuant to this section shall be transferred to the State Bureau of Investigation and
28 placed in the Automated Fingerprint Identification System (AFIS) to be used for all
29 investigative and comparison purposes. Photographs obtained pursuant to this section
30 shall be placed in a format approved by the State Bureau of Investigation and may be
31 used for all investigative or comparison purposes. Fingerprints of a juvenile who has
32 been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E
33 felony if committed by an adult, and who was 10 years of age or older at the time the
34 juvenile committed the offense, shall be transferred to the Federal Bureau of
35 Investigation to be used for all investigative or comparison purposes.

36 (d) Fingerprints and photographs taken pursuant to this section are not public
37 records under Chapter 132 of the General Statutes, shall not be included in the clerk's
38 record pursuant to G.S. 7B-3000, shall be withheld from public inspection or
39 examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200.
40 Fingerprints and photographs taken pursuant to this section shall be maintained
41 separately from any juvenile record, other than the electronic file maintained by the State
42 Bureau of Investigation.

1 (e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of
2 this section, the custodian of records shall destroy all fingerprints and photographs at the
3 earlier of the following:

- 4 (1) The intake counselor or prosecutor does not file a petition against the
5 juvenile;
- 6 (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- 7 (3) The juvenile is not adjudicated delinquent.

8 The chief court counselor shall notify the local custodian of records, and the local
9 custodian of records shall notify any other record-holding agencies, when a decision is
10 made not to file a petition, the court does not find probable cause, or the court does not
11 adjudicate the juvenile delinquent.

12 **"§ 7B-2103. Authority to issue nontestimonial identification order where juvenile**
13 **alleged to be delinquent.**

14 Except as provided in G.S. 7B-2102, nontestimonial identification procedures shall
15 not be conducted on any juvenile without a court order issued pursuant to this Article
16 unless the juvenile has been charged as an adult or transferred to superior court for trial as
17 an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of
18 Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order
19 authorized by this Article may be issued by any judge of the district court or of the
20 superior court upon request of a prosecutor. As used in this Article, 'nontestimonial
21 identification' means identification by fingerprints, palm prints, footprints, measurements,
22 blood specimens, urine specimens, saliva samples, hair samples, or other reasonable
23 physical examination, handwriting exemplars, voice samples, photographs, and lineups or
24 similar identification procedures requiring the presence of a juvenile.

25 **"§ 7B-2104. Time of application for nontestimonial identification order.**

26 A request for a nontestimonial identification order may be made prior to taking a
27 juvenile into custody or after custody and prior to the adjudicatory hearing.

28 **"§ 7B-2105. Grounds for nontestimonial identification order.**

29 (a) Except as provided in subsection (b) of this section, a nontestimonial
30 identification order may issue only on affidavit or affidavits sworn to before the court and
31 establishing the following grounds for the order:

- 32 (1) That there is probable cause to believe that an offense has been
33 committed that would be a felony if committed by an adult;
- 34 (2) That there are reasonable grounds to suspect that the juvenile named or
35 described in the affidavit committed the offense; and
- 36 (3) That the results of specific nontestimonial identification procedures will
37 be of material aid in determining whether the juvenile named in the
38 affidavit committed the offense.

39 (b) A nontestimonial identification order to obtain a blood specimen from a
40 juvenile may issue only on affidavit or affidavits sworn to before the court and
41 establishing the following grounds for the order:

- 42 (1) That there is probable cause to believe that an offense has been
43 committed that would be a felony if committed by an adult;

1 (2) That there is probable cause to believe that the juvenile named or
2 described in the affidavit committed the offense; and

3 (3) That there is probable cause to believe that obtaining a blood specimen
4 from the juvenile will be of material aid in determining whether the
5 juvenile named in the affidavit committed the offense.

6 **"§ 7B-2106. Issuance of order.**

7 Upon a showing that the grounds specified in G.S. 7B-2105 exist, the judge may issue
8 an order following the same procedure as in the case of adults under G.S. 15A-274, 15A-
9 275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280, and 15A-282.

10 **"§ 7B-2107. Nontestimonial identification order at request of juvenile.**

11 A juvenile in custody for or charged with an offense which if committed by an adult
12 would be a felony offense may request that nontestimonial identification procedures be
13 conducted. If it appears that the results of specific nontestimonial identification
14 procedures will be of material aid to the juvenile's defense, the judge to whom the request
15 was directed must order the State to conduct the identification procedures.

16 **"§ 7B-2108. Destruction of records resulting from nontestimonial identification**
17 **procedures.**

18 The results of any nontestimonial identification procedures shall be retained or
19 disposed of as follows:

20 (1) If a petition is not filed against a juvenile who has been the subject of
21 nontestimonial identification procedures, all records of the evidence
22 shall be destroyed.

23 (2) If the juvenile is not adjudicated delinquent or convicted in superior
24 court following transfer, all records resulting from a nontestimonial
25 order shall be destroyed. Further, in the case of a juvenile who is under
26 13 years of age and who is adjudicated delinquent for an offense that
27 would be less than a felony if committed by an adult, all records shall be
28 destroyed.

29 (3) If a juvenile 13 years of age or older is adjudicated delinquent for an
30 offense that would be a felony if committed by an adult, all records
31 resulting from a nontestimonial order may be retained in the court file.
32 Special precautions shall be taken to ensure that these records will be
33 maintained in a manner and under sufficient safeguards to limit their use
34 to inspection by law enforcement officers for comparison purposes in
35 the investigation of a crime.

36 (4) If the juvenile is transferred to and convicted in superior court, all
37 records resulting from nontestimonial identification procedures shall be
38 processed as in the case of an adult.

39 (5) Any evidence seized pursuant to a nontestimonial order shall be retained
40 by law enforcement officers until further order is entered by the court.

41 (6) Destruction of nontestimonial identification records pursuant to this
42 section shall be performed by the law enforcement agency having

possession of the records. Following destruction, the law enforcement agency shall make written certification to the court of the destruction.

"§ 7B-2109. Penalty for willful violation.

Any person who willfully violates provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by the court shall be guilty of a Class 1 misdemeanor.

"ARTICLE 22.

"Probable Cause Hearing and Transfer Hearing.

"§ 7B-2200. Transfer of jurisdiction of juvenile to superior court; direct filing in superior court.

(a) Except as provided in subsection (b) of this section, after notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults.

(b) Notwithstanding G.S. 7B-1601, the prosecutor may file charges in superior court against a juvenile who was 15 years of age at the time the juvenile allegedly committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

"§ 7B-2201. Fingerprinting juvenile transferred to superior court.

When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of Investigation.

"§ 7B-2202. Probable cause hearing.

(a) The court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. The hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(b) At the probable cause hearing:

(1) A prosecutor shall represent the State;

(2) The juvenile shall be represented by counsel;

(3) The juvenile may testify, call, and examine witnesses, and present evidence; and

(4) Each witness shall testify under oath or affirmation and be subject to cross-examination.

(c) The State shall by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

(1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in

1 some other scientific, professional, or medical field, concerning the
2 results of an examination, comparison, or test performed in connection
3 with the case in issue, when stated by that person in a report made by
4 the juvenile, is admissible in evidence;

5 (2) If there is no serious contest, reliable hearsay is admissible to prove
6 value, ownership of property, possession of property in a person other
7 than the juvenile, lack of consent of the owner, possessor, or custodian
8 of property to the breaking or entering of premises, chain of custody,
9 and authenticity of signatures.

10 (d) Counsel for the juvenile may waive in writing the right to the hearing and
11 stipulate to a finding of probable cause.

12 (e) If probable cause is found and transfer to superior court is not required by G.S.
13 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own
14 motion, the court shall either proceed to a transfer hearing or set a date for that hearing.
15 If the juvenile has not received notice of the intention to seek transfer at least five days
16 prior to the probable cause hearing, the court shall continue the transfer hearing.

17 (f) If the court does not find probable cause for a felony offense, the court shall:

18 (1) Dismiss the proceeding, or

19 (2) If the court finds probable cause to believe that the juvenile committed a
20 lesser included offense that would constitute a misdemeanor if
21 committed by an adult, either proceed to an adjudicatory hearing or set a
22 date for that hearing.

23 **"§ 7B-2203. Transfer hearing.**

24 (a) At the transfer hearing, the prosecutor and the juvenile may be heard and may
25 offer evidence, and the juvenile's attorney may examine any court or probation records,
26 or other records the court may consider in determining whether to transfer the case.

27 (b) In the transfer hearing, the court shall determine whether the protection of the
28 public and the needs of the juvenile will be served by transfer of the case to superior
29 court and shall consider the following factors:

30 (1) The age of the juvenile;

31 (2) The maturity of the juvenile;

32 (3) The intellectual functioning of the juvenile;

33 (4) The prior record of the juvenile;

34 (5) Prior attempts to rehabilitate the juvenile;

35 (6) Facilities or programs available to the court prior to the expiration of the
36 court's jurisdiction under this Subchapter and the likelihood that the
37 juvenile would benefit from treatment or rehabilitative efforts;

38 (7) Whether the alleged offense was committed in an aggressive, violent,
39 premeditated, or willful manner; and

40 (8) The seriousness of the offense and whether the protection of the public
41 requires that the juvenile be prosecuted as an adult.

42 (c) Any order of transfer shall specify the reasons for transfer. When the case is
43 transferred to superior court, the superior court has jurisdiction over that felony, any

1 offense based on the same act or transaction or on a series of acts or transactions
2 connected together or constituting parts of a single scheme or plan of that felony, and any
3 greater or lesser included offense of that felony.

4 (d) If the court does not transfer the case to superior court, the court shall either
5 proceed to an adjudicatory hearing or set a date for that hearing.

6 **"§ 7B-2204. Right to pretrial release; detention.**

7 Once the order of transfer has been entered, the juvenile has the right to pretrial
8 release as provided in G.S. 15A-533 and G.S 15A-534. The release order shall specify
9 the person or persons to whom the juvenile may be released. Pending release, the court
10 shall order that the juvenile be detained in a detention facility while awaiting trial. The
11 court may order the juvenile to be held in a holdover facility at any time the presence of
12 the juvenile is required in court for pretrial hearings or trial, if the court finds that it
13 would be inconvenient to return the juvenile to the detention facility.

14 Should the juvenile be found guilty, or enter a plea of guilty or no contest to a
15 criminal offense in superior court and receive an active sentence, then immediate transfer
16 to the Department of Correction shall be ordered. Until such time as the juvenile is
17 transferred to the Department of Correction, the juvenile may be detained in a holdover
18 facility. The juvenile may not be detained in a detention facility pending transfer to the
19 Department of Correction.

20 The juvenile may be kept by the Department of Correction as a safekeeper until the
21 juvenile is placed in an appropriate correctional program.

22 **"§ 7B-2205. When jeopardy attaches.**

23 Jeopardy attaches in an adjudicatory hearing when the court begins to hear evidence.

24 **"ARTICLE 23.**

25 **"Discovery.**

26 **"§ 7B-2300. Disclosure of evidence by petitioner.**

27 (a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be
28 delinquent, the court shall order the petitioner:

29 (1) To permit the juvenile to inspect and copy any relevant written or
30 recorded statements within the possession, custody, or control of the
31 petitioner made by the juvenile or any other party charged in the same
32 action; and

33 (2) To divulge, in written or recorded form, the substance of any oral
34 statement made by the juvenile or any other party charged in the same
35 action.

36 (b) Names of Witnesses. – Upon motion of the juvenile, the court shall order the
37 petitioner to furnish the names of persons to be called as witnesses. A copy of the record
38 of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon
39 the juvenile's motion if accessible to the petitioner.

40 (c) Documents and Tangible Objects. – Upon motion of the juvenile, the court
41 shall order the petitioner to permit the juvenile to inspect and copy books, papers,
42 documents, photographs, motion pictures, mechanical or electronic recordings, tangible
43 objects, or portions thereof.

1 (1) Which are within the possession, custody, or control of the petitioner,
2 the prosecutor, or any law enforcement officer conducting an
3 investigation of the matter alleged; and

4 (2) Which are material to the preparation of the defense, are intended for
5 use by the petitioner as evidence, or were obtained from or belong to the
6 juvenile.

7 (d) Reports of Examinations and Tests. – Upon motion of a juvenile, the court
8 shall order the petitioner to permit the juvenile to inspect and copy results of physical or
9 mental examinations or of tests, measurements, or experiments made in connection with
10 the case, within the possession, custody, or control of the petitioner. In addition upon
11 motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect,
12 examine, and test, subject to appropriate safeguards, any physical evidence or a sample of
13 it or tests or experiments made in connection with the evidence in the case if it is
14 available to the petitioner, the prosecutor, or any law enforcement officer conducting an
15 investigation of the matter alleged and if the petitioner intends to offer the evidence at
16 trial.

17 (e) Except as provided in subsections (a) through (d) of this section, this Article
18 does not require the production of reports, memoranda, or other internal documents made
19 by the petitioner, law enforcement officers, or other persons acting on behalf of the
20 petitioner in connection with the investigation or prosecution of the case or of statements
21 made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

22 (f) Nothing in this section prohibits a petitioner from making voluntary
23 disclosures in the interest of justice.

24 **"§ 7B-2301. Disclosure of evidence by juvenile.**

25 (a) Names of Witnesses. – Upon motion of the petitioner, the court shall order the
26 juvenile to furnish to the petitioner the names of persons to be called as witnesses.

27 (b) Documents and Tangible Objects. – If the court grants any relief sought by the
28 juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the
29 juvenile to permit the petitioner to inspect and copy books, papers, documents,
30 photographs, motion pictures, mechanical or electronic recordings, tangible objects, or
31 portions thereof which are within the possession, custody, or control of the juvenile and
32 which the juvenile intends to introduce in evidence.

33 (c) Reports of Examinations and Tests. – If the court grants any relief sought by
34 the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the
35 juvenile to permit the petitioner to inspect and copy results of physical or mental
36 examinations or of tests, measurements, or experiments made in connection with the case
37 within the possession and control of the juvenile which the juvenile intends to introduce
38 in evidence or which were prepared by a witness whom the juvenile intends to call if the
39 results relate to the witness's testimony. In addition, upon motion of a petitioner, the court
40 shall order the juvenile to permit the petitioner to inspect, examine, and test, subject to
41 appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to
42 offer the evidence or tests or experiments made in connection with the evidence in the
43 case.

1 **"§ 7B-2302. Regulation of discovery; protective orders.**

2 (a) Upon written motion of a party and a finding of good cause, the court may at
3 any time order that discovery or inspection be denied, restricted, or deferred.

4 (b) The court may permit a party seeking relief under subsection (a) of this section
5 to submit supporting affidavits or statements to the court for in camera inspection. If
6 thereafter the court enters an order granting relief under subsection (a) of this section, the
7 material submitted in camera must be available to the Court of Appeals in the event of an
8 appeal.

9 **"§ 7B-2303. Continuing duty to disclose.**

10 If a party, subject to compliance with an order issued pursuant to this Article,
11 discovers additional evidence prior to or during the hearing or decides to use additional
12 evidence, and if the evidence is or may be subject to discovery or inspection under this
13 Article, the party shall promptly notify the other party of the existence of the additional
14 evidence or of the name of each additional witness.

15 "ARTICLE 24.

16 "Hearing Procedures.

17 **"§ 7B-2400. Amendment of petition.**

18 The court may permit a petition to be amended when the amendment does not change
19 the nature of the offense alleged. If a motion to amend is allowed, the juvenile shall be
20 given a reasonable opportunity to prepare a defense to the amended allegations.

21 **"§ 7B-2401. Determination of incapacity to proceed; evidence; temporary**
22 **commitment; temporary orders.**

23 The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in
24 which a juvenile is alleged to be delinquent. No juvenile committed under this section
25 may be placed in a situation where the juvenile will come in contact with adults
26 committed for any purpose.

27 **"§ 7B-2402. Open hearings.**

28 All hearings authorized or required pursuant to this Subchapter shall be open to the
29 public unless the court closes the hearing or part of the hearing for good cause, upon
30 motion of a party or its own motion.

31 **"§ 7B-2403. Adjudicatory hearing.**

32 The adjudicatory hearing shall be held within a reasonable time in the district at the
33 time and place the chief district judge designates.

34 **"§ 7B-2404. Participation of the prosecutor.**

35 A prosecutor shall represent the State in contested delinquency hearings including
36 first appearance, detention, probable cause, transfer, adjudicatory, dispositional,
37 probation revocation, post-release supervision, and extended jurisdiction hearings.

38 **"§ 7B-2405. Conduct of the adjudicatory hearing.**

39 The adjudicatory hearing shall be a judicial process designed to determine whether the
40 juvenile is undisciplined or delinquent. In the adjudicatory hearing, the court shall protect
41 the following rights of the juvenile and the juvenile's parent, guardian, or custodian to
42 assure due process of law:

43 (1) The right to written notice of the facts alleged in the petition;

- 1 (2) The right to counsel;
- 2 (3) The right to confront and cross-examine witnesses;
- 3 (4) The privilege against self-incrimination;
- 4 (5) The right of discovery; and
- 5 (6) All rights afforded adult offenders except the right to bail, the right of
- 6 self-representation, and the right of trial by jury.

7 **"§ 7B-2406. Continuances.**

8 The court for good cause may continue the hearing for as long as is reasonably
9 required to receive additional evidence, reports, or assessments that the court has
10 requested, or other information needed in the best interests of the juvenile and to allow
11 for a reasonable time for the parties to conduct expeditious discovery. Otherwise,
12 continuances shall be granted only in extraordinary circumstances when necessary for the
13 proper administration of justice or in the best interests of the juvenile.

14 **"§ 7B-2407. When admissions by juvenile may be accepted.**

15 (a) The court may accept an admission from a juvenile only after first addressing
16 the juvenile personally and:

- 17 (1) Informing the juvenile that the juvenile has a right to remain silent and
18 that any statement the juvenile makes may be used against the juvenile;
- 19 (2) Determining that the juvenile understands the nature of the charge;
- 20 (3) Informing the juvenile that the juvenile has a right to deny the
21 allegations;
- 22 (4) Informing the juvenile that by the juvenile's admissions the juvenile
23 waives the juvenile's right to be confronted by the witnesses against the
24 juvenile;
- 25 (5) Determining that the juvenile is satisfied with the juvenile's
26 representation; and
- 27 (6) Informing the juvenile of the most restrictive disposition on the charge.

28 (b) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile
29 personally, the court shall determine whether there were any prior discussions involving
30 admissions, whether the parties have entered into any arrangement with respect to the
31 admissions and the terms thereof, and whether any improper pressure was exerted. The
32 court may accept an admission from a juvenile only after determining that the admission
33 is a product of informed choice.

34 (c) The court may accept an admission only after determining that there is a
35 factual basis for the admission. This determination may be based upon any of the
36 following information: a statement of the facts by the prosecutor; a written statement of
37 the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts
38 by the juvenile's attorney.

39 **"§ 7B-2408. Rules of evidence.**

40 If the juvenile denies the allegations of the petition, the court shall proceed in
41 accordance with the rules of evidence applicable to criminal cases. In addition, no
42 statement made by a juvenile to the intake counselor during the preliminary inquiry and
43 evaluation process shall be admissible prior to the dispositional hearing.

1 **"§ 7B-2409. Quantum of proof in adjudicatory hearing.**

2 The allegations of a petition alleging the juvenile is delinquent shall be proved beyond
3 a reasonable doubt. The allegations in a petition alleging undisciplined behavior shall be
4 proved by clear and convincing evidence.

5 **"§ 7B-2410. Record of proceedings.**

6 All adjudicatory and dispositional hearings and hearings on probable cause and
7 transfer to superior court shall be recorded by stenographic notes or by electronic or
8 mechanical means. Records shall be reduced to a written transcript only when timely
9 notice of appeal has been given. The court may order that other hearings be recorded.

10 **"§ 7B-2411. Adjudication.**

11 If the court finds that the allegations in the petition have been proved as provided in
12 G.S. 7B-2409, the court shall so state. If the court finds that the allegations have not been
13 proved, the court shall dismiss the petition with prejudice and the juvenile shall be
14 released from secure or nonsecure custody if the juvenile is in custody.

15 **"§ 7B-2412. Legal effect of adjudication of delinquency.**

16 An adjudication that a juvenile is delinquent or commitment of a juvenile to the
17 Department shall neither be considered conviction of any criminal offense nor cause the
18 juvenile to forfeit any citizenship rights.

19 **"§ 7B-2413. Predisposition investigation and report.**

20 The court shall proceed to the dispositional hearing upon receipt of sufficient social,
21 medical, psychiatric, psychological, and educational information. No predisposition
22 report shall be submitted to or considered by the court prior to the completion of the
23 adjudicatory hearing. The court shall permit the juvenile to inspect any predisposition
24 report to be considered by the court in making the disposition unless the court determines
25 that disclosure would seriously harm the juvenile's treatment or rehabilitation or would
26 violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be
27 afforded the juvenile and the juvenile's parent, guardian, or custodian at the dispositional
28 hearing. The court may order counsel not to disclose parts of the report to the juvenile or
29 the juvenile's parent, guardian, or custodian if the court finds that disclosure would
30 seriously harm the treatment or rehabilitation of the juvenile or would violate a promise
31 of confidentiality given to a source of information.

32 "ARTICLE 25.

33 "Dispositions.

34 **"§ 7B-2500. Purpose.**

35 The purpose of dispositions in juvenile actions is to design an appropriate plan to
36 meet the needs of the juvenile and to achieve the objectives of the State in exercising
37 jurisdiction, including the protection of the public. The court should develop a
38 disposition in each case that:

- 39 (1) Promotes public safety;
40 (2) Emphasizes accountability and responsibility of both the parent,
41 guardian, or custodian and the juvenile for the juvenile's conduct; and

1 (3) Provides the appropriate consequences, treatment, training, and
2 rehabilitation to assist the juvenile toward becoming a nonoffending,
3 responsible, and productive member of the community.

4 **"§ 7B-2500.1. Dispositional hearing.**

5 (a) The dispositional hearing may be informal, and the court may consider written
6 reports or other evidence concerning the needs of the juvenile.

7 (b) The juvenile and the juvenile's parent, guardian, or custodian shall have an
8 opportunity to present evidence, and they may advise the court concerning the disposition
9 they believe to be in the best interests of the juvenile.

10 (c) In choosing among statutorily permissible dispositions, the court shall select
11 the most appropriate disposition both in terms of kind and duration for the delinquent
12 juvenile. Within the guidelines set forth in G.S. 7B-2505, the court shall select a
13 disposition that is designed to protect the public and to meet the needs and best interests
14 of the juvenile, based upon:

15 (1) The seriousness of the offense;

16 (2) The need to hold the juvenile accountable;

17 (3) The importance of protecting the public safety;

18 (4) The degree of culpability indicated by the circumstances of the
19 particular case; and

20 (5) The rehabilitative and treatment needs of the juvenile.

21 (d) The court may dismiss the case, or continue the case for no more than six
22 months in order to allow the family an opportunity to meet the needs of the juvenile
23 through more adequate home supervision, through placement in a private or specialized
24 school or agency, through placement with a relative, or through some other plan
25 approved by the court.

26 **"§ 7B-2500.2. Evaluation and treatment of undisciplined and delinquent juveniles.**

27 (a) In any case, the court may order that the juvenile be examined by a physician,
28 psychiatrist, psychologist, or other qualified expert as may be needed for the court to
29 determine the needs of the juvenile.

30 (b) Upon completion of the examination, the court shall conduct a hearing to
31 determine whether the juvenile is in need of medical, surgical, psychiatric, psychological,
32 or other evaluation or treatment and who should pay the cost of the evaluation or
33 treatment. The county manager, or any other person who is designated by the chair of the
34 board of county commissioners, of the county of the juvenile's residence shall be notified
35 of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of
36 medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court
37 shall permit the parent, guardian, custodian, or other responsible persons to arrange for
38 evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make
39 necessary arrangements, the court may order the needed evaluation or treatment, surgery,
40 or care, and the court may order the parent to pay the cost of the care pursuant to Article
41 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or
42 treatment, the court shall order the county to arrange for evaluation or treatment of the
43 juvenile and to pay for the cost of the evaluation or treatment. The county department of

1 social services shall recommend the facility that will provide the juvenile with evaluation
2 or treatment.

3 (c) If the court believes, or if there is evidence presented to the effect that the
4 juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to
5 the area mental health, developmental disabilities, and substance abuse services director
6 for appropriate action. A juvenile shall not be committed directly to a State hospital or
7 mental retardation center; and orders purporting to commit a juvenile directly to a State
8 hospital or mental retardation center except for an examination to determine capacity to
9 proceed shall be void and of no effect. The area mental health, developmental disabilities,
10 and substance abuse director shall be responsible for arranging an interdisciplinary
11 evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If
12 institutionalization is determined to be the best service for the juvenile, admission shall
13 be with the voluntary consent of the parent or guardian. If the parent, guardian, or
14 custodian refuses to consent to a mental hospital or retardation center admission after
15 such institutionalization is recommended by the area mental health, developmental
16 disabilities, and substance abuse director, the signature and consent of the court may be
17 substituted for that purpose. In all cases in which a regional mental hospital refuses
18 admission to a juvenile referred for admission by the court and an area mental health,
19 developmental disabilities, and substance abuse director or discharges a juvenile
20 previously admitted on court referral prior to completion of the juvenile's treatment, the
21 hospital shall submit to the court a written report setting out the reasons for denial of
22 admission or discharge and setting out the juvenile's diagnosis, indications of mental
23 illness, indications of need for treatment, and a statement as to the location of any facility
24 known to have a treatment program for the juvenile in question.

25 **"§ 7B-2501. Dispositional alternatives for undisciplined juveniles.**

26 The following alternatives for disposition shall be available to the court exercising
27 jurisdiction over a juvenile who has been adjudicated undisciplined. The court may
28 combine any of the applicable alternatives when the court finds it to be in the best
29 interests of the juvenile:

- 30 (1) In the case of any juvenile who needs more adequate care or supervision
31 or who needs placement, the judge may:
- 32 a. Require that the juvenile be supervised in the juvenile's own
33 home by a department of social services in the juvenile's county
34 of residence, a court counselor, or other personnel as may be
35 available to the court, subject to conditions applicable to the
36 parent, guardian, or custodian or the juvenile as the judge may
37 specify; or
 - 38 b. Place the juvenile in the custody of a parent, guardian, custodian,
39 relative, private agency offering placement services, or some
40 other suitable person; or
 - 41 c. Place the juvenile in the custody of a department of social
42 services in the county of the juvenile's residence, or in the case of
43 a juvenile who has legal residence outside the State, in the

1 physical custody of a department of social services in the county
2 where the juvenile is found so that agency may return the
3 juvenile to the responsible authorities in the juvenile's home
4 state. The director may, unless otherwise ordered by the judge,
5 arrange for, provide, or consent to, needed routine or emergency
6 medical or surgical care or treatment. In the case where the
7 parent is unknown, unavailable, or unable to act on behalf of the
8 child or children, the director may, unless otherwise ordered by
9 the judge, arrange for, provide or consent to any psychiatric,
10 psychological, educational, or other remedial evaluations or
11 treatment for the juvenile placed by a judge or the judge's
12 designee in the custody or physical custody of a county
13 department of social services under the authority of this or any
14 other Chapter of the General Statutes. Prior to exercising this
15 authority, the director shall make reasonable efforts to obtain
16 consent from a parent or guardian of the affected child. If the
17 director cannot obtain consent, the director shall promptly notify
18 the parent or guardian that care or treatment has been provided
19 and shall give the parent or guardian frequent status reports on
20 the circumstances of the child. Upon request of a parent or
21 guardian of the affected child, the results or records of the
22 forementioned evaluations, findings, or treatment shall be made
23 available to the parent or guardian by the director unless
24 prohibited by G.S. 122C-53(d).

25 (2) Place the juvenile under the protective supervision of a court counselor
26 for no more than one year.

27 (3) Excuse the juvenile from compliance with the compulsory school
28 attendance law when the court finds that suitable alternative plans can
29 be arranged by the family through other community resources for one of
30 the following: an education related to the needs or abilities of the
31 juvenile including vocational education or special education; a suitable
32 plan of supervision or placement; or some other plan that the court finds
33 to be in the best interests of the juvenile.

34 **"§ 7B-2502. Conditions of protective supervision for undisciplined juveniles.**

35 The court may place a juvenile on protective supervision pursuant to G.S. 7B-2501 so
36 that the court counselor may (i) assist the juvenile in securing social, medical, and
37 educational services and (ii) visit and work with the family as a unit to ensure the juvenile
38 is provided proper supervision and care. The court may impose any combination of the
39 following conditions of protective supervision that are related to the needs of the juvenile,
40 including:

41 (1) That the juvenile shall remain on good behavior and not violate any
42 laws;

43 (2) That the juvenile attend school regularly;

- 1 (3) That the juvenile maintain passing grades in up to four courses during
2 each grading period and meet with the court counselor and a
3 representative of the school to make a plan for how to maintain those
4 passing grades;
- 5 (4) That the juvenile not associate with specified persons or be in specified
6 places;
- 7 (5) That the juvenile abide by a prescribed curfew;
- 8 (6) That the juvenile report to a court counselor as often as required by a
9 court counselor;
- 10 (7) That the juvenile be employed regularly if not attending school; and
- 11 (8) That the juvenile satisfy any other conditions determined appropriate by
12 the court.

13 **"§ 7B-2503. Contempt of court for undisciplined juveniles.**

14 Upon motion of the court counselor or on the court's own motion, the court may issue
15 an order directing a juvenile who has been adjudicated undisciplined to appear and show
16 cause why the juvenile should not be held in contempt for willfully failing to comply
17 with an order of the court. The first time the juvenile is held in contempt, the court may
18 order the juvenile confined in an approved detention facility for a period not to exceed 24
19 hours. The second time the juvenile is held in contempt, the court may order the juvenile
20 confined in an approved detention facility for a period not to exceed three days. The
21 third time and all subsequent times the juvenile is held in contempt, the court may order
22 the juvenile confined in an approved detention facility for a period not to exceed five
23 days.

24 **"§ 7B-2504. Dispositional alternatives for delinquent juveniles.**

25 The court exercising jurisdiction over a juvenile who has been adjudicated delinquent
26 may use the following alternatives in accordance with the dispositional structure set forth
27 in G.S. 7B-2505:

- 28 (1) In the case of any juvenile who needs more adequate care or supervision
29 or who needs placement, the judge may:
- 30 a. Require that a juvenile be supervised in the juvenile's own home
31 by the department of social services in the juvenile's county, a
32 court counselor, or other personnel as may be available to the
33 court, subject to conditions applicable to the parent, guardian, or
34 custodian or the juvenile as the judge may specify; or
- 35 b. Place the juvenile in the custody of a parent, guardian, custodian,
36 relative, private agency offering placement services, or some
37 other suitable person; or
- 38 c. Place the juvenile in the custody of the department of social
39 services in the county of his residence, or in the case of a juvenile
40 who has legal residence outside the State, in the physical custody
41 of a department of social services in the county where the
42 juvenile is found so that agency may return the juvenile to the
43 responsible authorities in the juvenile's home state. The director

1 may, unless otherwise ordered by the judge, arrange for, provide,
2 or consent to, needed routine or emergency medical or surgical
3 care or treatment. In the case where the parent is unknown,
4 unavailable, or unable to act on behalf of the child or children,
5 the director may, unless otherwise ordered by the judge, arrange
6 for, provide, or consent to any psychiatric, psychological,
7 educational, or other remedial evaluations or treatment for the
8 juvenile placed by a judge or his designee in the custody or
9 physical custody of a county department of social services under
10 the authority of this or any other Chapter of the General Statutes.
11 Prior to exercising this authority, the director shall make
12 reasonable efforts to obtain consent from a parent or guardian of
13 the affected child. If the director cannot obtain such consent, the
14 director shall promptly notify the parent or guardian that care or
15 treatment has been provided and shall give the parent or guardian
16 frequent status reports on the circumstances of the child. Upon
17 request of a parent or guardian of the affected child, the results or
18 records of the aforementioned evaluations, findings, or treatment
19 shall be made available to such parent or guardian by the director
20 unless prohibited by G.S. 122C-53(d).

- 21 (2) Excuse the juvenile from compliance with the compulsory school
22 attendance law when the court finds that suitable alternative plans can
23 be arranged by the family through other community resources for one of
24 the following: an education related to the needs or abilities of the
25 juvenile including vocational education or special education; a suitable
26 plan of supervision or placement; or some other plan that the court finds
27 to be in the best interests of the juvenile.
- 28 (3) Order the juvenile to cooperate with a community-based program or a
29 professional residential or nonresidential treatment program.
30 Participation in the programs shall not exceed 12 months.
- 31 (4) Require restitution, full or partial, payable within a 12-month period to
32 any person who has suffered loss or damage as a result of the offense
33 committed by the juvenile. The court may determine the amount, terms,
34 and conditions of the restitution. If the juvenile participated with another
35 person or persons, all participants should be jointly and severally
36 responsible for the payment of restitution; however, the court shall not
37 require the juvenile to make restitution if the juvenile satisfies the court
38 that the juvenile does not have, and could not reasonably acquire, the
39 means to make restitution.
- 40 (5) Impose a fine related to the seriousness of the juvenile's offense. If the
41 juvenile has the ability to pay the fine, it shall not exceed the maximum
42 fine for the offense if committed by an adult.

- 1 (6) Order the juvenile to perform supervised community service consistent
2 with the juvenile's age, skill, and ability, specifying the nature of the
3 work and the number of hours required. The work shall be related to the
4 seriousness of the juvenile's offense and in no event may the obligation
5 to work exceed 12 months.
- 6 (7) Order the juvenile to participate in the victim-offender reconciliation
7 program.
- 8 (8) Place the juvenile on probation under the supervision of a court
9 counselor, as specified in G.S. 7B-2506.
- 10 (9) Order that the juvenile shall not be licensed to operate a motor vehicle
11 in the State of North Carolina for as long as the court retains jurisdiction
12 over the juvenile or for any shorter period of time and notify the
13 Division of Motor Vehicles of that order.
- 14 (10) Impose a curfew upon the juvenile.
- 15 (11) Order the juvenile to cooperate with placement in a residential treatment
16 facility or in a group home other than a multipurpose group home
17 operated by a State agency.
- 18 (12) Order the juvenile to cooperate with placement in a wilderness program.
- 19 (13) Impose confinement on an intermittent basis in an approved detention
20 facility. Confinement shall be limited to not more than five 24-hour
21 periods, the timing of which is determined by the court in its discretion.
- 22 (14) Place the juvenile on intensive probation under the supervision of a
23 court counselor.
- 24 (15) Order the juvenile to cooperate with a supervised day program requiring
25 the juvenile to be present at a specified place for all or part of every day
26 or of certain days. The court also may require the juvenile to comply
27 with any other reasonable conditions specified in the dispositional order
28 that are designed to facilitate supervision.
- 29 (16) Order the juvenile to participate in a regimented training program.
- 30 (17) Order the juvenile to submit to house arrest.
- 31 (18) Suspend imposition of a more severe, statutorily permissible disposition
32 with the provision that the juvenile meet certain conditions agreed to by
33 the juvenile and specified in the dispositional order. The conditions shall
34 not exceed the allowable dispositions for the level under which
35 disposition is being imposed.
- 36 (19) Order that the juvenile be confined in a secure juvenile detention facility
37 for a term of up to 14 24-hour periods, which confinement shall not be
38 imposed consecutively with intermittent confinement pursuant to
39 subdivision (13) of this section at the same dispositional hearing.
- 40 (20) Order the residential placement of a juvenile in a multipurpose group
41 home operated by a State agency.
- 42 (21) Commit the juvenile to the Department in accordance with G.S. 7B-
43 2509 for a period of not less than six months.

1 **"§ 7B-2504.1. Delinquency history levels.**

2 (a) Generally. – The delinquency history level for a delinquent juvenile is
3 determined by calculating the sum of the points assigned to each of the juvenile's prior
4 adjudications and to the juvenile's probation status, if any, that the court finds to have
5 been proved in accordance with this section.

6 (b) Points. – Points are assigned as follows:

7 (1) For each prior adjudication of a Class A through E felony offense, 4
8 points.

9 (2) For each prior adjudication of a Class F through I felony offense or
10 Class A1 misdemeanor offense, 2 points.

11 (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1
12 point.

13 (4) If the juvenile was on probation at the time of adjudication, 2 points.

14 (c) Delinquency History Levels. – The delinquency history levels are:

15 (1) Low – No more than 1 point.

16 (2) Medium – At least 2, but not more than 3 points.

17 (3) High – At least 4 points.

18 In determining the delinquency history level, the classification of a prior offense is the
19 classification assigned to that offense at the time the juvenile committed the offense for
20 which disposition is being ordered.

21 (d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of
22 determining the delinquency history level, if a juvenile is adjudicated delinquent for more
23 than one offense in a single session of district court, only the adjudication for the offense
24 with the highest point total is used.

25 (e) Classification of Prior Adjudications From Other Jurisdictions. – Except as
26 otherwise provided in this subsection, an adjudication occurring in a jurisdiction other
27 than North Carolina is classified as a Class I felony if the jurisdiction in which the
28 offense occurred classifies the offense as a felony, or is classified as a Class 3
29 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a
30 misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense
31 classified as a felony in the other jurisdiction is substantially similar to an offense that is a
32 misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for
33 assigning delinquency history level points. If the State proves by the preponderance of
34 the evidence that an offense classified as either a misdemeanor or a felony in the other
35 jurisdiction is substantially similar to an offense in North Carolina that is classified as a
36 Class I felony or higher, the conviction is treated as that class of felony for assigning
37 delinquency history level points. If the State proves by the preponderance of the evidence
38 that an offense classified as a misdemeanor in the other jurisdiction is substantially
39 similar to an offense classified as a Class A1 misdemeanor in North Carolina, the
40 adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level
41 points.

42 (f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of
43 the following methods:

- 1 (1) Stipulation of the parties.
- 2 (2) An original or copy of the court record of the prior adjudication.
- 3 (3) A copy of records maintained by the Division of Criminal Information
4 or by the Department.
- 5 (4) Any other method found by the court to be reliable.

6 The State bears the burden of proving, by a preponderance of the evidence, that a
7 prior adjudication exists and that the juvenile before the court is the same person as the
8 juvenile named in the prior adjudication. The original or a copy of the court records or a
9 copy of the records maintained by the Division of Criminal Information or of the
10 Department, bearing the same name as that by which the juvenile is charged, is prima
11 facie evidence that the juvenile named is the same person as the juvenile before the court,
12 and that the facts set out in the record are true. For purposes of this subsection, 'a copy'
13 includes a paper writing containing a reproduction of a record maintained electronically
14 on a computer or other data processing equipment, and a document produced by a
15 facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to
16 the court the juvenile's full record. Evidence presented by either party at trial may be
17 utilized to prove prior adjudications. If asked by the juvenile, the prosecutor shall furnish
18 the juvenile's prior adjudications to the juvenile within a reasonable time sufficient to
19 allow the juvenile to determine if the record available to the prosecutor is accurate.

20 **"§ 7B-2505. Dispositional limits for each class of offense and delinquency history**
21 **level.**

22 (a) Offense Classification. – The offense classifications are as follows:

- 23 (1) Violent – adjudication of a Class A through E felony offense;
- 24 (2) Serious – adjudication of a Class F through I felony offense or a Class
25 A1 misdemeanor;
- 26 (3) Minor – adjudication of a Class 1, 2, or 3 misdemeanor.

27 (b) Delinquency History Levels. – A delinquency history level shall be determined
28 for each delinquent juvenile as provided in G.S. 7B-2504.1.

29 (c) Level 1 – Community Disposition. – A court exercising jurisdiction over a
30 juvenile who has been adjudicated delinquent and for whom the dispositional chart in
31 subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation
32 and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives
33 contained in subdivisions (1) through (13) of G.S. 7B-2504. In determining which
34 dispositional alternative is appropriate, the court shall consider the needs of the juvenile,
35 the appropriate community resources available to meet those needs, and the protection of
36 the public.

37 (d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a
38 juvenile who has been adjudicated delinquent and for whom the dispositional chart in
39 subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation
40 and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives
41 contained in subdivisions (1) through (20) of G.S. 7B-2504, but shall provide for at least
42 one of the intermediate dispositions authorized in subdivisions (12) and (14) through (20)
43 of G.S. 7B-2504. In determining which dispositional alternative is appropriate, the court

1 shall consider the needs of the juvenile, the appropriate community resources available to
 2 meet those needs, and the protection of the public.

3 (e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who
 4 has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of
 5 this section prescribes a Level 3 disposition shall commit the juvenile to the Department
 6 in accordance with G.S. 7B-2504(21). However, a court may impose a Level 2
 7 disposition rather than a Level 3 disposition if the court submits written findings on the
 8 record that substantiate extraordinary needs on the part of the offending juvenile.

9 (f) Dispositions for Each Class of Offense and Delinquency History Level;
 10 Disposition Chart Described. – The authorized disposition for each class of offense and
 11 delinquency history level is as specified in the chart below. Delinquency history levels
 12 are indicated horizontally on the top of the chart. Classes of offense are indicated
 13 vertically on the left side of the chart. Each cell on the chart indicates which of the
 14 dispositional levels described in subsections (c) through (e) of this section are prescribed
 15 for that combination of offense classification and delinquency history level:

16

17 **DELINQUENCY HISTORY**

18 <u>OFFENSE</u>	19 <u>LOW</u>	20 <u>MEDIUM</u>	21 <u>HIGH</u>
22 <u>VIOLENT</u>	23 <u>Level 2 or 3</u>	24 <u>Level 3</u>	25 <u>Level 3</u>
26 <u>SERIOUS</u>	27 <u>Level 1 or 2</u>	28 <u>Level 2</u>	29 <u>Level 2 or 3</u>
30 <u>MINOR</u>	31 <u>Level 1</u>	32 <u>Level 1 or 2</u>	33 <u>Level 2.</u>

34 (g) The court may consider as a mitigating factor evidence of a juvenile's
 35 cooperation with law enforcement in providing information about other persons with
 36 whom the juvenile acted in the commission of the offense for which the juvenile was
 37 adjudicated. A mitigating factor may be used in determining the appropriate
 38 dispositional options within the level prescribed by the dispositional chart in subsection
 39 (f) of this section.

40 (h) If a juvenile is adjudicated of more than one offense at the same time, the court
 41 shall consolidate the offenses for disposition and impose a single disposition for the
 42 consolidated offenses. The disposition shall be specified for the class of offense and
 43 delinquency history level of the most serious offense.

44 **"§ 7B-2506. Conditions of probation; violation of probation.**

45 (a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-
 46 2504(8), the court counselor shall have the authority to visit the juvenile where the
 47 juvenile resides. The court may impose conditions of probation that are related to the
 48 needs of the juvenile and that are reasonably necessary to ensure that the juvenile will
 49 lead a law-abiding life, including:

- 1 (1) That the juvenile shall remain on good behavior and not violate any
2 laws.
- 3 (2) That the juvenile attend school regularly.
- 4 (3) That the juvenile maintain passing grades in up to four courses during
5 each grading period and meet with the court counselor and a
6 representative of the school to make a plan for how to maintain those
7 passing grades.
- 8 (4) That the juvenile not associate with specified persons or be in specified
9 places.
- 10 (5) That the juvenile remain free of any controlled substance included in
11 any schedule of Article 5 of Chapter 90 of the General Statutes, the
12 Controlled Substances Act, and the juvenile submit to random drug
13 testing.
- 14 (6) That the juvenile abide by a prescribed curfew.
- 15 (7) That the juvenile submit to a warrantless search at reasonable times.
- 16 (8) That the juvenile possess no firearm, explosive device, or other deadly
17 weapon.
- 18 (9) That the juvenile report to a court counselor as often as required by a
19 court counselor.
- 20 (10) That the juvenile make specified financial restitution or pay a fine in
21 accordance with G.S. 7B-2504(4) and (5).
- 22 (11) That the juvenile be employed regularly if not attending school.
- 23 (12) That the juvenile satisfy any other conditions determined appropriate by
24 the court.

25 (b) In addition to the regular conditions of probation specified in subsection (a) of
26 this section, the court may order the juvenile to comply, if directed to comply by the court
27 counselor, with one or more of the following conditions:

- 28 (1) Perform up to 20 hours of community service;
- 29 (2) Submit to substance abuse monitoring and treatment;
- 30 (3) Cooperate with electronic monitoring;
- 31 (4) Cooperate with intensive supervision; and
- 32 (5) Participate in a life skills or an educational skills program administered
33 by the Department.

34 (c) An order of probation shall remain in force for a period not to exceed two
35 years from the date entered. Prior to expiration of an order of probation, the court may
36 extend it for an additional period of one year after a hearing if the court finds that the
37 extension is necessary to protect the community or to safeguard the welfare of the
38 juvenile.

39 (d) If the juvenile violates the conditions of probation set by the court, the court
40 may elect to continue the original conditions of probation, modify the conditions of
41 probation, or, except as provided in subsection (e) of this section, order a new disposition
42 at the next higher level on the disposition chart in G.S. 7B-2505. In the court's discretion,

1 part of the new disposition may include an order of confinement in a secure juvenile
2 detention facility for up to twice the term authorized by G.S. 7B-2505.

3 **"§ 7B-2507. Probation review.**

4 The court may review the progress of any juvenile on probation at any time during the
5 period of probation or at the end of probation. Except as provided in G.S. 7B-2506, the
6 conditions or duration of probation may be modified only as provided in this Subchapter
7 and only after there is notice and a hearing. If a juvenile violates the conditions of
8 probation, the juvenile and the juvenile's parent, guardian, or custodian after notice may
9 be required to appear before the court and the court may make any disposition of the
10 matter authorized by this Subchapter. At the end of or at any time during probation, the
11 court may terminate probation by written order upon finding that there is no further need
12 for supervision. The finding and order terminating probation may be entered in chambers
13 in the absence of the juvenile and may be based on a report from the court counselor or,
14 at the election of the court, the order may be entered with the juvenile present after notice
15 and a hearing.

16 **"§ 7B-2508. Dispositional order.**

17 The dispositional order shall be in writing and shall contain appropriate findings of
18 fact and conclusions of law. The court shall state with particularity, both orally and in the
19 written order of disposition, the precise terms of the disposition including the kind,
20 duration, and the person who is responsible for carrying out the disposition and the
21 person or agency in whom custody is vested.

22 **"§ 7B-2509. Commitment of delinquent juvenile to Department.**

23 (a) Pursuant to G.S. 7B-2504 and G.S. 7B-2505, the court may commit a
24 delinquent juvenile who is at least 10 years of age to the Department for placement in one
25 of the residential facilities operated by the Department. Commitment shall be for a
26 definite or indefinite term of at least six months. In no event shall the term exceed the
27 nineteenth birthday of the juvenile.

28 (b) The court may commit a juvenile to a definite term of not more than two years
29 if the court finds that the juvenile is 14 years of age or older, has been previously
30 adjudicated delinquent for two or more felony offenses, and has been previously
31 committed to a residential facility operated by the Department.

32 (c) The chief court counselor shall have the responsibility for transporting the
33 juvenile to the residential facility designated by the Department. The juvenile shall be
34 accompanied to the residential facility by a person of the same sex.

35 (d) The chief court counselor shall ensure that the records requested by the
36 Secretary or the Secretary's designee accompany the juvenile upon transportation for
37 admittance to a training school or, if not obtainable at the time of admission, are sent to
38 the training school within 15 days of the admission. If records requested by the
39 Department for admission do not exist, to the best knowledge of the chief court
40 counselor, the chief court counselor shall so stipulate in writing to the training school. If
41 such records do exist, but the chief court counselor is unable to obtain copies of them, a
42 district court may order that the records from public agencies be made available to the
43 training school. Records that are confidential by law shall remain confidential and the

1 Department shall be bound by the specific laws governing the confidentiality of these
2 records. All records shall be used in a manner consistent with the best interests of the
3 juvenile.

4 (e) A commitment order accompanied by information requested by the Secretary
5 shall be forwarded to the Department. The Secretary shall place the juvenile in the
6 residential facility that would best provide for the juvenile's needs and shall notify the
7 committing court. The Secretary may assign a juvenile committed for delinquency to any
8 institution or other program of the Department or licensed by the Department, which
9 program is appropriate to the needs of the juvenile.

10 (f) When the court commits a juvenile to the Department, the Secretary shall
11 prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

12 (g) Commitment of a juvenile to the Department does not terminate the court's
13 continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or custodian.
14 Commitment of a juvenile to the Department transfers only physical custody of the
15 juvenile. Legal custody remains with the parent, guardian, custodian, agency, or
16 institution in whom it was vested.

17 (h) Pending placement of a juvenile with the Department, the court may house a
18 juvenile who has been adjudicated delinquent for an offense that would be a Class A, B1,
19 B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the
20 court, based on the information provided by the court counselor, determines that no
21 acceptable alternative placement is available and the protection of the public requires that
22 the juvenile be housed in a holdover facility.

23 **"§ 7B-2510. Post-release supervision planning; hearing.**

24 (a) The Secretary shall be responsible for evaluation of the progress of each
25 juvenile at least once every six months as long as the juvenile remains in the care of the
26 Department. If the Secretary determines that a juvenile is ready for release, the Secretary,
27 in consultation with the court counselor, shall initiate a post-release supervision planning
28 process. The post-release supervision planning process shall be defined by rules and
29 regulations of the Department, but shall include the following:

30 (1) Written notification shall be given to the court that ordered
31 commitment.

32 (2) A post-release supervision planning conference shall be held involving
33 as many as possible of the following: the juvenile, the juvenile's parent,
34 guardian, or custodian, court counselors who have supervised the
35 juvenile on probation or will supervise the juvenile on post-release
36 supervision, and staff of the facility that found the juvenile ready for
37 release. The planning conference shall include personal contact and
38 evaluation rather than telephonic notification.

39 (3) The planning conference participants shall consider, based on the
40 individual needs of the juvenile and pursuant to rules adopted by the
41 Department, placement of the juvenile in any program under the
42 auspices of the Department, including the Community-Based

1 Alternatives programs, that, in the judgment of the Department, may
2 serve as a transitional placement, pending release under G.S. 7B-2512.

3 (b) The Department, in consultation with the court counselor, shall develop the
4 plan in writing and base the terms on the needs of the juvenile and the protection of the
5 public. Every plan shall require the juvenile to complete at least 90 days of post-release
6 supervision. At least 45 days prior to release, the Department shall provide a copy of the
7 plan to the juvenile, the juvenile's parent, guardian, or custodian, the chief district court
8 judge, the district attorney, and the court counselor who will provide post-release
9 supervision. Within 10 days of receipt of the plan, the juvenile, the court counselor, or the
10 prosecutor may file a motion to request a hearing to determine whether release of the
11 juvenile to post-release supervision is appropriate. If no motion is filed and the court
12 does not initiate a hearing on its own motion, the plan shall become effective and the
13 juvenile shall be released as scheduled.

14 (c) Within 10 days of the filing of the motion, the court shall conduct a post-
15 release supervision hearing to determine whether release of the juvenile to post-release
16 supervision is appropriate. After review of the plan, the court shall order the conditions
17 of post-release supervision if it finds the juvenile should be placed on post-release
18 supervision. The juvenile, the juvenile's attorney, and the juvenile's parent, guardian, or
19 custodian shall be notified in writing of the hearing at least 10 days prior to the scheduled
20 hearing date. The court counselor and the prosecutor shall attend the hearing and, if the
21 court requests, present testimony or evidence as to whether the juvenile has completed
22 the plan for care or treatment developed pursuant to G.S. 7B-2509.

23 (d) The court shall release a juvenile under a plan of post-release supervision at
24 least 90 days prior to the later of:

25 (1) Completion of the juvenile's definite term of commitment; or

26 (2) If the juvenile is committed for an indefinite term, either on the
27 juvenile's eighteenth birthday if no motion for extended jurisdiction has
28 been filed pursuant to G.S. 7B-2513 or on the juvenile's nineteenth
29 birthday.

30 (e) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, before
31 the court releases a juvenile who is serving a commitment for a Class A or B1 felony to
32 post-release supervision, the Department shall notify, at least 45 days in advance of the
33 scheduled release date, by first-class mail at the last known address:

34 (1) The juvenile;

35 (2) The juvenile's parent, guardian, or custodian;

36 (3) The district attorney of the district where the juvenile was adjudicated;

37 (4) The head law enforcement agency that took the juvenile into custody;
38 and

39 (5) The victim and any of the victim's immediate family members who have
40 requested in writing to be notified.

41 The notification shall include only the juvenile's name, offense, date of commitment,
42 and date of any scheduled release hearing. A copy of the notice shall be placed in the
43 juvenile's file.

1 (f) The court may release a juvenile under an indefinite commitment to post-
2 release supervision only after the juvenile has been committed for a period of at least six
3 months.

4 (g) A juvenile committed to the Department for a definite term shall receive credit
5 toward that term for the time the juvenile spends on post-release supervision.

6 **"§ 7B-2511. Revocation of post-release supervision.**

7 If a juvenile fails to complete the terms of post-release supervision, the court
8 counselor providing post-release supervision may make a motion for review in the court
9 in the district where the juvenile has been residing during post-release supervision. The
10 court shall hold a hearing to determine whether there has been a violation. With respect to
11 any hearing pursuant to this section, the juvenile:

12 (1) Shall have reasonable notice in writing of the nature and content of the
13 allegations in the motion, including notice that the purpose of the
14 hearing is to determine whether the juvenile has violated the terms of
15 post-release supervision to the extent that post-release supervision
16 should be revoked;

17 (2) Shall be represented by an attorney at the hearing;

18 (3) Shall have the right to confront and cross-examine any persons who
19 have made allegations against the juvenile; and

20 (4) May admit, deny, or explain the violation alleged and may present
21 proof, including affidavits or other evidence, in support of the juvenile's
22 contentions. A record of the proceeding shall be made and preserved in
23 the juvenile's record.

24 If the court determines that the juvenile has violated the terms of post-release
25 supervision, the court may revoke the post-release supervision or make any other
26 disposition authorized by this Subchapter.

27 If the court revokes the post-release supervision, the chief court counselor shall have
28 the responsibility for returning the juvenile to the facility specified by the Department.

29 **"§ 7B-2512. Final discharge.**

30 (a) The court shall release a juvenile from the custody of the Department only
31 after the juvenile completes post-release supervision or when the juvenile is released to
32 the Department of Correction pursuant to G.S. 15A-1340.16B.

33 (b) Notwithstanding the provisions of this section, in no event shall a juvenile
34 remain committed after the juvenile's eighteenth birthday except pursuant to G.S. 7B-
35 2513.

36 **"§ 7B-2513. Extended jurisdiction under certain circumstances; review hearing.**

37 (a) By order of the court, juvenile court jurisdiction over a juvenile may be
38 extended past the age of 18 years until the person reaches the person's nineteenth
39 birthday. The provisions of this Subchapter shall apply to any person under the
40 jurisdiction of the juvenile court pursuant to this section, regardless of whether the term
41 'person' or 'juvenile' is used in the provision.

42 (b) When the chief court counselor, or the Department if the juvenile is committed
43 to the Department, determines a juvenile should remain under the jurisdiction of the court

1 for a period of time after the age of 18 years, the chief court counselor or Department
2 shall file a motion for a review hearing in the judicial district where the juvenile was
3 adjudicated. This motion shall be filed at least 180 days prior to the eighteenth birthday
4 of the juvenile. The chief court counselor or Department shall notify the juvenile, the
5 juvenile's attorney, and the juvenile's parent, guardian, or custodian in writing of the date
6 and time of the scheduled hearing at least 10 days prior to the scheduled hearing date.

7 (c) Within 30 days after the motion is filed, the court shall conduct a review
8 hearing to determine whether the juvenile shall remain under the jurisdiction of the court.
9 The court counselor and the prosecutor shall attend the hearing and, if the court requests,
10 present testimony or evidence as to whether the juvenile continues to be in need of and
11 can benefit from further treatment or services.

12 (d) In determining whether to order that the juvenile remain under the jurisdiction
13 of the court, the court shall consider:

14 (1) The recommendation of the chief court counselor or the Secretary based
15 on the juvenile's progress;

16 (2) The likelihood that continued jurisdiction will lead to further
17 rehabilitation;

18 (3) The safety and protection of the facility's juvenile population, if
19 applicable; and

20 (4) The protection of the public.

21 (e) If the court orders the juvenile remain under the jurisdiction of the court and
22 the juvenile is committed to the Department, commitment shall be for a definite term or
23 an indefinite term not to exceed the nineteenth birthday of the person.

24 (f) The Secretary shall modify the plan for care or treatment of the juvenile
25 prepared pursuant to G.S. 7B-2509.

26 **"§ 7B-2514. Transfer authority of Governor.**

27 The Governor may order transfer of any person less than 18 years of age from any jail
28 or penal facility of the State to one of the residential facilities operated by the Department
29 in appropriate circumstances, provided the Governor shall consult with the Department
30 concerning the feasibility of the transfer in terms of available space, staff, and suitability
31 of program.

32 When an inmate, committed to the Department of Correction, is transferred by the
33 Governor to a residential program operated by the Department, the Department may
34 release the juvenile based on the needs of the juvenile and the best interests of the State.
35 Transfer shall not divest the probation or parole officer of the officer's responsibility to
36 supervise the inmate on release.

37 "ARTICLE 26.

38 "Modification and Enforcement of Dispositional Orders; Appeals.

39 **"§ 7B-2600. Authority to modify or vacate.**

40 (a) Upon motion in the cause or petition, and after notice, the court may conduct a
41 review hearing to determine whether the order of the court is in the best interests of the
42 juvenile, and the court may modify or vacate the order in light of changes in
43 circumstances or the needs of the juvenile.

1 (b) In a case of delinquency, the court may reduce the nature or the duration of the
2 disposition on the basis that it was imposed in an illegal manner or is unduly severe with
3 reference to the seriousness of the offense, the culpability of the juvenile, or the
4 dispositions given to juveniles convicted of similar offenses.

5 (c) In any case where the court finds the juvenile to be delinquent or undisciplined,
6 the jurisdiction of the court to modify any order or disposition made in the case shall
7 continue (i) during the minority of the juvenile, (ii) until the juvenile reaches the age of
8 19 years, if the court has extended jurisdiction, or (iii) until terminated by order of the
9 court.

10 **"§ 7B-2601. Request for modification for lack of suitable services.**

11 If the Secretary finds that any juvenile committed to the Department's care is not
12 suitable for its program, the Secretary may make a motion in the cause so that the court
13 may make an alternative disposition that is consistent with G.S. 7B-2505.

14 **"§ 7B-2602. Right to appeal.**

15 Upon motion of a proper party as defined in G.S. 7B-2603, review of any final order
16 of the court in a juvenile matter under this Article shall be before the Court of Appeals.
17 Notice of appeal shall be given in open court at the time of the hearing or in writing
18 within 10 days after entry of the order. However, if no disposition is made within 60 days
19 after entry of the order, written notice of appeal may be given within 70 days after such
20 entry. A final order shall include:

21 (1) Any order finding absence of jurisdiction;

22 (2) Any order which in effect determines the action and prevents a
23 judgment from which appeal might be taken;

24 (3) Any order of disposition after an adjudication that a juvenile is
25 delinquent or undisciplined; or

26 (4) Any order modifying custodial rights.

27 **"§ 7B-2603. Proper parties for appeal.**

28 An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian,
29 or the State or county agency. The State's appeal is limited to the following orders in
30 delinquency or undisciplined cases:

31 (1) An order finding a State statute to be unconstitutional; and

32 (2) Any order which terminates the prosecution of a petition by upholding
33 the defense of double jeopardy, by holding that a cause of action is not
34 stated under a statute, or by granting a motion to suppress.

35 **"§ 7B-2604. Disposition pending appeal.**

36 Pending disposition of an appeal, the release of the juvenile, with or without
37 conditions, should issue in every case unless the court orders otherwise. For compelling
38 reasons which must be stated in writing, the court may enter a temporary order affecting
39 the custody or placement of the juvenile as the court finds to be in the best interests of the
40 juvenile or the State.

41 **"§ 7B-2605. Disposition after appeal.**

42 Upon the affirmation of the order of adjudication or disposition of the court by the
43 Court of Appeals or by the Supreme Court in the event of an appeal, the court shall have

1 authority to modify or alter the original order of adjudication or disposition as the court
2 finds to be in the best interests of the juvenile to reflect any adjustment made by the
3 juvenile or change in circumstances during the period of time the appeal was pending. If
4 the modifying order is entered ex parte, the court shall give notice to interested parties to
5 show cause within 10 days thereafter as to why the modifying order should be vacated or
6 altered.

7 "ARTICLE 27.

8 "Authority Over Parents of Juveniles Adjudicated Delinquent or Undisciplined.

9 "§ 7B-2700. Appearance in court.

10 (a) The parent, guardian, or custodian of a juvenile under the jurisdiction of the
11 juvenile court shall attend the hearings of which the parent, guardian, or custodian
12 receives notice. The court may excuse the appearance of either or both parents or the
13 guardian or custodian at subsequent hearings. Unless so excused, the willful failure of a
14 parent, guardian, or custodian to attend a hearing of which the parent, guardian, or
15 custodian has notice shall be grounds for contempt.

16 (b) No employer may discharge or demote any employee because the employee is
17 required to appear in court pursuant to this section. Any employer who violates any
18 provision of this section shall be liable in a civil action for reasonable damages suffered
19 by an employee as a result of the violation, and an employee discharged or demoted in
20 violation of this section shall be entitled to be reinstated to the employee's former
21 position. The burden of proof shall be upon the employee. The statute of limitations for
22 actions under this section shall be one year pursuant to G.S. 1-54.

23 "§ 7B-2701. Parental responsibility classes.

24 The court may order the parent of a juvenile who has been adjudicated undisciplined
25 or delinquent to attend parental responsibility classes if those classes are available in the
26 judicial district in which the parent resides.

27 "§ 7B-2702. Medical, surgical, psychiatric, or psychological evaluation or treatment
28 of juvenile or parent.

29 (a) If the court orders medical, surgical, psychiatric, psychological, or other
30 evaluation or treatment pursuant to G.S. 7B-2500.2, the court may order the parent or
31 other responsible parties to pay the cost of the treatment or care ordered.

32 (b) At the dispositional hearing or a subsequent hearing, if the court finds that it is
33 in the best interests of the juvenile for the parent, guardian, or custodian to be directly
34 involved in the juvenile's evaluation or treatment, the court may order that person to
35 participate in medical, psychiatric, psychological, or other evaluation or treatment of the
36 juvenile. The cost of the evaluation or treatment shall be paid pursuant to G.S. 7B-
37 2500.2.

38 (c) At the dispositional hearing or a subsequent hearing, the court may determine
39 whether the best interests of the juvenile require that the parent, guardian, or custodian
40 undergo psychiatric, psychological, or other evaluation or treatment or counseling
41 directed toward remedying behaviors or conditions that led to or contributed to the
42 juvenile's adjudication or to the court's decision to remove custody of the juvenile from
43 the parent, guardian, or custodian. If the court finds that the best interests of the juvenile

1 require the parent, guardian, or custodian undergo evaluation or treatment, it may order
2 that person to comply with a plan of evaluation or treatment approved by the court or
3 condition legal custody or physical placement of the juvenile with the parent, guardian, or
4 custodian upon that person's compliance with the plan of evaluation or treatment.

5 (d) In cases in which the court has ordered the parent of the juvenile, rather than a
6 guardian or custodian, to comply with or undergo evaluation or treatment, the court may
7 order the parent to pay the cost of evaluation or treatment ordered pursuant to this
8 subsection. In cases in which the court has conditioned legal custody or physical
9 placement of the juvenile with the parent upon the parent's compliance with a plan of
10 evaluation or treatment, the court may charge the cost of the evaluation or treatment to
11 the county of the juvenile's residence if the court finds the parent is unable to pay the cost
12 of the evaluation or treatment. In all other cases, if the court finds the parent is unable to
13 pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court
14 may order the parent to receive evaluation or treatment currently available from the area
15 mental health program that serves the parent's catchment area.

16 **"§ 7B-2703. Compliance with orders of court.**

17 (a) The court may order the parent, guardian, or custodian, to the extent that
18 person is able to do so, to provide transportation for a juvenile to keep an appointment
19 with a court counselor or to comply with other orders of the court.

20 (b) The court may order a parent, guardian, or custodian to cooperate with and
21 assist the juvenile in complying with the terms and conditions of probation or other
22 orders of the court.

23 **"§ 7B-2704. Payment of support or other expenses; assignment of insurance**
24 **coverage.**

25 At the dispositional hearing or a subsequent hearing, if the court finds that the parent
26 is able to do so, the court may order the parent to:

- 27 (1) Pay a reasonable sum that will cover in whole or in part the support of
28 the juvenile. If the court requires the payment of child support, the
29 amount of the payments shall be determined as provided in G.S. 50-
30 13.4;
31 (2) Pay a fee for probation supervision or residential facility costs;
32 (3) Assign private insurance coverage to cover medical costs while the
33 juvenile is in secure detention, training school, or other out-of-home
34 placement; and
35 (4) Pay court-appointed attorneys' fees.

36 If the court places a juvenile in the custody of a county department of social services and
37 if the court finds that the parent is unable to pay the cost of the support required by the
38 juvenile, the cost shall be paid by the county department of social services in whose
39 custody the juvenile is placed, provided the juvenile is not receiving care in an institution
40 owned or operated by the State or federal government or any subdivision thereof.

41 **"§ 7B-2705. Contempt for failure to comply.**

42 Upon motion of the court counselor or prosecutor or upon the court's own motion, the
43 court may issue an order directing the parent, guardian, or custodian to appear and show

1 cause why the parent, guardian, or custodian should not be found or held in civil or
2 criminal contempt for willfully failing to comply with an order of the court. Chapter 5A
3 of the General Statutes shall govern contempt proceedings initiated pursuant to this
4 Article.

5 "ARTICLE 28.

6 "Interstate Compact on Juveniles.

7 **"§ 7B-2800. Execution of Compact.**

8 The Governor is hereby authorized and directed to execute a Compact on behalf of
9 this State with any other state or states legally joining therein in the form substantially as
10 follows: The contracting states solemnly agree.

11 **"§ 7B-2801. Findings and purposes.**

12 Juveniles who are not under proper supervision and control, or who have absconded,
13 escaped, or run away, are likely to endanger their own health, morals, and welfare, and
14 the health, morals, and welfare of others. The cooperation of the states party to this
15 Compact is therefore necessary to provide for the welfare and protection of juveniles and
16 of the public with respect to:

- 17 (1) Cooperative supervision of delinquent juveniles on probation or parole;
- 18 (2) The return, from one state to another, of delinquent juveniles who have
19 escaped or absconded;
- 20 (3) The return, from one state to another, of nondelinquent juveniles who
21 have run away from home; and
- 22 (4) Additional measures for the protection of juveniles and of the public,
23 which any two or more of the party states may find desirable to
24 undertake cooperatively.

25 In carrying out the provisions of this Compact, the party states shall be guided by the
26 noncriminal, reformative, and protective policies which guide their laws concerning
27 delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states
28 party to this Compact to cooperate and observe their respective responsibilities for the
29 prompt return and acceptance of juveniles and delinquent juveniles who become subject
30 to the provisions of this Compact. The provisions of this Compact shall be reasonably
31 and liberally construed to accomplish the foregoing purposes.

32 **"§ 7B-2802. Existing rights and remedies.**

33 All remedies and procedures provided by this Compact are in addition to and not in
34 substitution for other rights, remedies, and procedures and are not in derogation of
35 parental rights and responsibilities.

36 **"§ 7B-2803. Definitions.**

37 For the purposes of this Compact, 'delinquent juvenile' means any juvenile who has
38 been adjudged delinquent and who, at the time the provisions of this Compact are
39 invoked, is still subject to the jurisdiction of the court that has made adjudication or to the
40 jurisdiction or supervision of an agency or institution pursuant to an order of the court;
41 'probation or parole' means any kind of post-release supervision of juveniles authorized
42 under the laws of the states party hereto; 'court' means any court having jurisdiction over
43 delinquent, neglected, or dependent children; 'state' means any state, territory, or

1 possession of the United States, the District of Columbia, and the Commonwealth of
2 Puerto Rico; and 'residence' or any variant thereof means a place at which a home or
3 regular place of abode is maintained.

4 **"§ 7B-2804. Return of runaways.**

5 (a) The parent, guardian, person, or agency entitled to legal custody of a juvenile
6 who has not been adjudged delinquent but who has run away without the consent of the
7 parent, guardian, person, or agency may petition the appropriate court in the demanding
8 state for the issuance of a requisition for the juvenile's return. The petition shall state the
9 name and age of the juvenile, the name of the petitioner and the basis of entitlement to
10 the juvenile's custody, the circumstances of the running away, the juvenile's location if
11 known at the time application is made, and any other facts that may tend to show that the
12 juvenile who has run away is endangering the juvenile's own welfare or the welfare of
13 others and is not an emancipated minor. The petition shall be verified by affidavit, shall
14 be executed in duplicate, and shall be accompanied by two certified copies of the
15 document or documents on which the petitioner's entitlement to the juvenile's custody is
16 based, such as birth certificates, letters of guardianship, or custody decrees. Any further
17 affidavits and other documents as may be deemed proper may be submitted with the
18 petition. The judge of the court to which this application is made may hold a hearing
19 thereon to determine whether for the purposes of this Compact the petitioner is entitled to
20 the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run
21 away without consent, whether or not the juvenile is an emancipated minor, and whether
22 or not it is in the best interests of the juvenile to compel the juvenile's return to the state.
23 If the judge determines, either with or without a hearing, that the juvenile should be
24 returned, the judge shall present to the appropriate court or to the executive authority of
25 the state where the juvenile is alleged to be located a written requisition for the return of
26 the juvenile. The requisition shall set forth the name and age of the juvenile, the
27 determination of the court that the juvenile has run away without the consent of a parent,
28 guardian, person, or agency entitled to legal custody, and that it is in the best interests and
29 for the protection of the juvenile that the juvenile be returned. In the event that a
30 proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent
31 juvenile is pending in the court at the time when the juvenile runs away, the court may
32 issue a requisition for the return of the juvenile upon its own motion, regardless of the
33 consent of the parent, guardian, person, or agency entitled to legal custody, reciting
34 therein the nature and circumstances of the pending proceeding. The requisition shall in
35 every case be executed in duplicate and shall be signed by the judge. One copy of the
36 requisition shall be filed with the Compact Administrator of the demanding state, there to
37 remain on file subject to the provisions of law governing records of the court. Upon the
38 receipt of a requisition demanding the return of a juvenile who has run away, the court or
39 the executive authority to whom the requisition is addressed shall issue an order to any
40 peace officer or other appropriate person directing that person to take into custody and
41 detain the juvenile. The detention order must substantially recite the facts necessary to the
42 validity of its issuance hereunder. No juvenile detained upon the order shall be delivered
43 over to the officer whom the court has appointed to receive the juvenile unless the

1 juvenile first is taken before a judge of a court in the state, who shall inform the juvenile
2 of the demand made for the juvenile's return, and who may appoint counsel or guardian
3 ad litem for the juvenile. If the court finds that the requisition is in order, the court shall
4 deliver the juvenile over to the officer appointed to receive the juvenile by the court
5 demanding the juvenile. The court, however, may fix a reasonable time to be allowed for
6 the purpose of testing the legality of the proceeding.

7 Upon reasonable information that a person is a juvenile who has run away from
8 another state party to this Compact without the consent of a parent, guardian, person, or
9 agency entitled to legal custody, the juvenile may be taken into custody without a
10 requisition and brought before a judge of the appropriate court who may appoint counsel
11 or guardian ad litem for the juvenile and who shall determine after a hearing whether
12 sufficient cause exists to hold the person, subject to the order of the court, for the
13 juvenile's own protection and welfare, for such a time not exceeding 90 days as will
14 enable the return of the juvenile to another state party to this Compact pursuant to a
15 requisition for return from a court of that state. If, at the time when a state seeks the
16 return of a juvenile who has run away, there is pending in the state wherein the juvenile is
17 found, any criminal charge, or any proceeding to have the juvenile adjudicated a
18 delinquent juvenile for an act committed in the state, or if the juvenile is suspected of
19 having committed within the state a criminal offense or an act of juvenile delinquency,
20 the juvenile shall not be returned without the consent of the state until discharged from
21 prosecution or other form of proceeding, imprisonment, detention, or supervision for the
22 offense or juvenile delinquency. The duly accredited officers of any state party to this
23 Compact, upon the establishment of their authority and the identity of the juvenile being
24 returned, shall be permitted to transport the juvenile through any and all states party to
25 this Compact, without interference. Upon return of the juvenile to the state from which
26 the juvenile ran away, the juvenile shall be subject to such further proceedings as may be
27 appropriate under the laws of that state.

28 (b) The state to which the juvenile is returned under this Article shall be
29 responsible for payment of the transportation costs of return.

30 (c) The term 'juvenile' as used in this Article means any person who is a minor
31 under the law of the state of residence of the parent, guardian, person, or agency entitled
32 to the legal custody of the minor.

33 **"§ 7B-2805. Return of escapees and absconders.**

34 (a) The appropriate person or authority from whose probation or parole
35 supervision a delinquent juvenile has absconded or from whose institutional custody a
36 delinquent juvenile has escaped shall present to the appropriate court or to the executive
37 authority of the state where the delinquent juvenile is alleged to be located a written
38 requisition for the return of the delinquent juvenile. The requisition shall state the name
39 and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a
40 delinquent juvenile, the circumstances of the breach of the terms of probation or parole or
41 of the juvenile's escape from an institution or agency vested with legal custody or
42 supervision, and the location of the delinquent juvenile, if known, at the time the
43 requisition is made. The requisition shall be verified by affidavit, shall be executed in

1 duplicate, and shall be accompanied by two certified copies of the judgment, formal
2 adjudication, or order of commitment which subjects the delinquent juvenile to probation
3 or parole or to the legal custody of the institution or agency concerned. Any further
4 affidavits and documents as may be deemed proper may be submitted with the
5 requisition. One copy of the requisition shall be filed with the Compact Administrator of
6 the demanding state, there to remain on file subject to the provisions of the law governing
7 records of the appropriate court. Upon the receipt of a requisition demanding the return of
8 a delinquent juvenile who has absconded or escaped, the court or the executive authority
9 to whom the requisition is addressed shall issue an order to any peace officer or other
10 appropriate person directing the person to take into custody and detain such delinquent
11 juvenile. The detention order must substantially recite the facts necessary to the validity
12 of its issuance hereunder. No delinquent juvenile detained upon the order shall be
13 delivered over to the officer whom the appropriate person or authority demanding the
14 juvenile has appointed to receive the juvenile, unless the juvenile is first taken forthwith
15 before a judge of an appropriate court in the state, who shall inform the juvenile of the
16 demand made for the return and who may appoint counsel or guardian ad litem for the
17 juvenile. If the judge of the court finds that the requisition is in order, the judge shall
18 deliver the delinquent juvenile over to the officer whom the appropriate person or
19 authority demanding the juvenile appointed to receive the juvenile. The judge, however,
20 may fix a reasonable time to be allowed for the purpose of testing the legality of the
21 proceeding.

22 Upon reasonable information that a person is a delinquent juvenile who has
23 absconded while on probation or parole, or escaped from an institution or agency vested
24 with legal custody or supervision in any state party to this Compact, the person may be
25 taken into custody in any other state party to this Compact without a requisition. But in
26 that event, the juvenile shall be taken forthwith before a judge of the appropriate court,
27 who may appoint counsel or guardian ad litem for the person and who shall determine
28 after a hearing, whether sufficient cause exists to hold the person subject to the order of
29 the court for a length of time, not exceeding 90 days, as will enable detention of the
30 juvenile under a detention order issued on a requisition pursuant to this Article. If, at the
31 time when a state seeks the return of a delinquent who has either absconded while on
32 probation or parole or escaped from an institution or agency vested with legal custody or
33 supervision, there is pending in the state wherein the juvenile is detained any criminal
34 charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act
35 committed in the state, or if the juvenile is suspected of having committed a criminal
36 offense or an act of juvenile delinquency within the state, the juvenile shall not be
37 returned without the consent of the state until discharged from prosecution or other form
38 of proceeding, imprisonment, detention, or supervision for the offense or juvenile
39 delinquency. The duly accredited officers of any state party to this Compact, upon the
40 establishment of their authority and the identity of the delinquent juvenile being returned,
41 shall be permitted to transport the delinquent juvenile through any and all states party to
42 this Compact, without interference. Upon return to the state from which the juvenile

1 escaped or absconded, the delinquent juvenile shall be subject to any further proceedings
2 appropriate under the laws of that state.

3 (b) The state to which a delinquent juvenile is returned under this Article shall be
4 responsible for the payment of transportation costs of the return.

5 **"§ 7B-2806. Voluntary return procedure.**

6 Any delinquent juvenile who has absconded while on probation or parole, or escaped
7 from an institution or agency vested with legal custody or supervision in any state party
8 to this Compact, and any juvenile who has run away from any state party to this
9 Compact, who is taken into custody without a requisition in another state party to this
10 Compact under the provisions of G.S. 7B-2804(a) or G.S. 7B-2805(a), may consent to the
11 immediate return of the juvenile to the state from which the juvenile absconded, escaped,
12 or ran away. Consent shall be given by the juvenile or delinquent juvenile and the
13 juvenile's counsel or guardian ad litem, if any, by executing or subscribing a writing in
14 the presence of a judge of the appropriate court, which states that the juvenile or
15 delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to
16 return of the juvenile to the demanding state. Before consent is executed or subscribed,
17 however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform
18 the juvenile or delinquent juvenile of the juvenile's rights under this Compact. When the
19 consent has been duly executed, it shall be forwarded to and filed with the Compact
20 Administrator of the state in which the court is located, and the judge shall direct the
21 officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the
22 duly accredited officer or officers of the state demanding return of the juvenile and shall
23 cause to be delivered to the officer or officers a copy of the consent. The court may,
24 however, upon the request of the state to which the juvenile or delinquent juvenile is
25 being returned, order the juvenile to return unaccompanied to the state and shall provide
26 the juvenile with a copy of the court order; in that event a copy of the consent shall be
27 forwarded to the Compact Administrator of the state to which the juvenile or delinquent
28 juvenile is ordered to return.

29 **"§ 7B-2807. Cooperative supervision of probationers and parolees.**

30 (a) That the duly constituted judicial and administrative authorities of a state party
31 to this Compact (herein called 'sending state') may permit any delinquent juvenile within
32 such state, placed on probation or parole, to reside in any other state party to this
33 Compact (herein called 'receiving state') while on probation or parole, and the receiving
34 state shall accept the delinquent juvenile, if the parent, guardian, or person entitled to the
35 legal custody of the delinquent juvenile is residing or undertakes to reside within the
36 receiving state. Before granting permission, opportunity shall be given to the receiving
37 state to make investigations as it deems necessary. The authorities of the sending state
38 shall send to the authorities of the receiving state copies of pertinent court orders, social
39 case studies, and all other available information which may be of value to and assist the
40 receiving state in supervising a probationer or parolee under this Compact. A receiving
41 state, in its discretion, may agree to accept supervision of a probationer or parolee in
42 cases where the parent, guardian, or person entitled to the legal custody of the delinquent

1 juvenile is not a resident of the receiving state, and if so accepted, the sending state may
2 transfer the supervision accordingly.

3 (b) That each receiving state will assume the duties of visitation and of supervision
4 over any delinquent juvenile and in the exercise of those duties will be governed by the
5 same standards of visitation and supervision that prevail for its own delinquent juveniles
6 released on probation or parole.

7 (c) That, after consultation between the appropriate authorities of the sending state
8 and of the receiving state as to the desirability and necessity of returning the delinquent
9 juvenile, the duly accredited officers of a sending state may enter a receiving state and
10 there apprehend and retake any delinquent juvenile on probation or parole. For that
11 purpose, no formalities will be required other than establishing the authority of the officer
12 and the identity of the delinquent juvenile to be retaken and returned. The decision of the
13 sending state to retake a delinquent juvenile on probation or parole shall be conclusive
14 upon and not reviewable within the receiving state, but if, at the time the sending state
15 seeks to retake a delinquent juvenile on probation or parole, there is pending against the
16 juvenile within the receiving state any criminal charge or any proceeding to have the
17 juvenile adjudicated a delinquent juvenile for any act committed in the state or if the
18 juvenile is suspected of having committed within the state a criminal offense or an act of
19 juvenile delinquency, the juvenile shall not be returned without the consent of the
20 receiving state until discharged from prosecution or other form of proceeding,
21 imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly
22 accredited officers of the sending state shall be permitted to transport delinquent juveniles
23 being so returned through any and all states party to this Compact without interference.

24 (d) The sending state shall be responsible under this Article for paying the costs of
25 transporting any delinquent juvenile to the receiving state or of returning any delinquent
26 juvenile to the sending state.

27 **"§ 7B-2808. Responsibility for costs.**

28 (a) The provisions of G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d) shall not be
29 construed to alter or affect any internal relationship among the departments, agencies, and
30 officers of and in the government of a party state, or between a party state and its
31 subdivisions, as to the payment of costs or responsibilities therefor.

32 (b) Nothing in this Compact shall be construed to prevent any party state or
33 subdivision thereof from asserting any right against any person, agency, or other entity in
34 regard to costs for which such party state or subdivision thereof may be responsible
35 pursuant to G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d).

36 **"§ 7B-2809. Detention practices.**

37 To every extent possible, it shall be the policy of states party to this Compact that no
38 juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup,
39 nor be detained or transported in association with criminal, vicious, or dissolute persons.

40 **"§ 7B-2810. Supplementary agreements.**

41 The duly constituted administrative authorities of a state party to this Compact may
42 enter into supplementary agreements with any other state or states party hereto for the
43 cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they find

1 that the agreements will improve the facilities or programs available for care, treatment,
2 and rehabilitation. Care, treatment, and rehabilitation may be provided in an institution
3 located within any state entering into a supplementary agreement. Supplementary
4 agreements shall:

- 5 (1) Provide the rates to be paid for the care, treatment, and custody of
6 delinquent juveniles taking into consideration the character of facilities,
7 services, and subsistence furnished;
- 8 (2) Provide that the delinquent juvenile shall be given a court hearing prior
9 to the juvenile being sent to another state for care, treatment, and
10 custody;
- 11 (3) Provide that the state receiving a delinquent juvenile in one of its
12 institutions shall act solely as agent for the state sending the delinquent
13 juvenile;
- 14 (4) Provide that the sending state shall at all times retain jurisdiction over
15 delinquent juveniles sent to an institution in another state;
- 16 (5) Provide for reasonable inspection of the institutions by the sending
17 state;
- 18 (6) Provide that the consent of the parent, guardian, person, or agency
19 entitled to the legal custody of the delinquent juvenile shall be secured
20 prior to the juvenile being sent to another state; and
- 21 (7) Make provisions for any other matters and details as shall be necessary
22 to protect the rights and equities of delinquent juveniles and of the
23 cooperating states.

24 **"§ 7B-2811. Acceptance of federal and other aid.**

25 Any state party to this Compact may accept any and all donations, gifts, and grants of
26 money, equipment, and services from the federal or any local government, or any agency
27 thereof and from any person, firm, or corporation, for any of the purposes and functions
28 of this Compact, and may receive and utilize, the same subject to the terms, conditions,
29 and regulations governing such donations, gifts, and grants.

30 **"§ 7B-2812. Compact administrators.**

31 The governor of each state party to this Compact shall designate an officer who,
32 acting jointly with like officers of other party states, shall promulgate rules and
33 regulations to carry out more efficiently the terms and provisions of this Compact.

34 **"§ 7B-2813. Execution of Compact.**

35 This Compact shall become operative immediately upon its execution by any state as
36 between it and any other state or states so executing. When executed it shall have the full
37 force and effect of law within the state, the form of execution to be in accordance with
38 the laws of the executing state.

39 **"§ 7B-2814. Renunciation.**

40 This Compact shall continue in force and remain binding upon each executing state
41 until renounced by it. Renunciation of this Compact shall be by the same authority which
42 executed it, by sending six months' notice in writing of its intention to withdraw from the
43 Compact to the other states party hereto. The duties and obligations of a renouncing state

1 under G.S. 7B-2807 hereof shall continue as to parolees and probationers residing therein
2 at the time of withdrawal until retaken or finally discharged. Supplementary agreements
3 entered into under G.S. 7B-2810 hereof shall be subject to renunciation as provided by
4 supplementary agreements and shall not be subject to the six months' renunciation notice
5 of the present section.

6 **"§ 7B-2815. Severability.**

7 The provisions of this Compact shall be severable and if any phrase, clause, sentence,
8 or provision of this Compact is declared to be contrary to the constitution of any
9 participating state or of the United States or the applicability thereof to any government,
10 agency, person, or circumstances is held invalid, the validity of the remainder of this
11 Compact and the applicability thereof to any government, agency, person, or
12 circumstances shall not be affected thereby. If this Compact shall be held contrary to the
13 constitution of any state participating therein, the Compact shall remain in full force and
14 effect as to the remaining states and in full force and effect as to the state affected as to
15 all severable matters.

16 **"§ 7B-2816. Authority of Governor to designate Compact Administrator.**

17 Pursuant to said Compact, the Governor is hereby authorized and empowered to
18 designate an officer who shall be the Compact Administrator and who, acting jointly with
19 like officers of other party states, shall adopt rules and regulations to carry out more
20 effectively the terms of the Compact. The Compact Administrator shall serve subject to
21 the pleasure of the Governor. The Compact Administrator is hereby authorized,
22 empowered, and directed to cooperate with all departments, agencies, and officers of and
23 in the government of this State and its subdivisions in facilitating the proper
24 administration of the Compact or of any supplementary agreement or agreements entered
25 into by this State hereunder.

26 **"§ 7B-2817. Authority of Compact Administrator to enter into supplementary**
27 **agreements.**

28 The Compact Administrator is hereby authorized and empowered to enter into
29 supplementary agreements with appropriate officials of other states pursuant to the
30 Compact. In the event that the supplementary agreement shall require or contemplate the
31 use of any institution or facility of this State or require or contemplate the provision of
32 any service by this State, the supplementary agreement shall have no force or effect until
33 approved by the head of the department or agency under whose jurisdiction said
34 institution or facility is operated or whose department or agency will be charged with the
35 rendering of the service.

36 **"§ 7B-2818. Discharging financial obligations imposed by Compact or agreement.**

37 The Compact Administrator, subject to the approval of the Director of the Budget,
38 may make or arrange for any payments necessary to discharge any financial obligations
39 imposed upon this State by the Compact or by any supplementary agreement entered into
40 thereunder.

41 **"§ 7B-2819. Enforcement of Compact.**

1 The courts, departments, agencies, and officers of this State and subdivisions shall
2 enforce this Compact and shall do all things appropriate to the effectuation of its purposes
3 and intent which may be within their respective jurisdictions.

4 **"§ 7B-2820. Additional procedure for returning runaways not precluded.**

5 In addition to any procedure provided in G.S. 7B-2804 and G.S. 7B-2806 of the
6 Compact for the return of any runaway juvenile, the particular states, the juvenile or the
7 juvenile's parents, the courts, or other legal custodian involved may agree upon and adopt
8 any other plan or procedure legally authorized under the laws of this State and the other
9 respective party states for the return of any runaway juvenile.

10 **"§ 7B-2821. Proceedings for return of runaways under G.S. 7B-2804 of Compact;**
11 **'juvenile' construed.**

12 The judge of any court in North Carolina to which an application is made for the
13 return of a runaway under the provisions of G.S. 7B-2804 of the Interstate Compact on
14 Juveniles shall hold a hearing thereon to determine whether for the purposes of the
15 Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it
16 appears that the juvenile has in fact run away without consent, whether or not the juvenile
17 is an emancipated minor and whether or not it is in the best interests of the juvenile to
18 compel the return of the juvenile to the state. The judge of any court in North Carolina,
19 finding that a requisition for the return of a juvenile under the provisions of G.S. 7B-2804
20 of the Compact is in order, shall upon request fix a reasonable time to be allowed for the
21 purpose of testing the legality of the proceeding. The period of time for holding a juvenile
22 in custody under the provisions of G.S. 7B-2804 of the Compact for the protection and
23 welfare of the juvenile, subject to the order of a court of this State, to enable the juvenile's
24 return to another state party to the Compact pursuant to a requisition for return from a
25 court of that state, shall not exceed 30 days. In applying the provisions of G.S. 7B-2804
26 of the Compact to secure the return of a runaway from North Carolina, the courts of this
27 State shall construe the word 'juvenile' as used in this Article to mean any person who
28 has not reached the person's eighteenth birthday.

29 **"§ 7B-2822. Interstate parole and probation hearing procedures for juveniles.**

30 Where supervision of a parolee or probationer is being administered pursuant to the
31 Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in
32 this State shall notify the Compact Administrator of the sending state whenever, in their
33 view, consideration should be given to retaking or reincarceration for a parole or a
34 probation violation. Prior to giving of notification, a hearing shall be held in accordance
35 with this Article within a reasonable time, unless the hearing is waived by the parolee or
36 probationer. The appropriate officer or officers of this State shall, as soon as practicable,
37 following termination of any hearing, report to the sending state, furnish a copy of the
38 hearing record, and make recommendations regarding the disposition to be made of the
39 parolee or probationer by the sending state. Pending any proceeding pursuant to this
40 section, the appropriate officers of this State may take custody of and detain the parolee
41 or probationer involved for a period not to exceed 10 days prior to the hearing and, if it
42 appears to the hearing officer or officers that retaking or reincarceration is likely to

1 follow, for a reasonable period after the hearing or waiver as may be necessary to arrange
2 for retaking or the reincarceration.

3 **"§ 7B-2823. Hearing officers.**

4 Any hearing pursuant to this Article may be before the Administrator of the Interstate
5 Compact on Juveniles, a deputy of the Administrator, or any other person authorized
6 pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or
7 probation violations, except that no hearing officer shall be the person making the
8 allegation of violation.

9 **"§ 7B-2824. Due process at parole or probation violation hearing.**

10 With respect to any hearing pursuant to this Article, the parolee or probationer:

- 11 (1) Shall have reasonable notice in writing of the nature and content of the
12 allegations to be made, including notice that the purpose of the hearing
13 is to determine whether there is probable cause to believe that the
14 parolee or probationer has committed a violation that may lead to a
15 revocation of parole or probation;
- 16 (2) Shall be permitted to advise with any persons whose assistance the
17 parolee or probationer reasonably desires, prior to the hearing;
- 18 (3) Shall have the right to confront and examine any persons who have
19 made allegations against the parolee or probationer, unless the hearing
20 officer determines that confrontation would present a substantial present
21 or subsequent danger of harm to the person or persons; and
- 22 (4) May admit, deny, or explain the violation alleged and may present
23 proof, including affidavits and other evidence, in support of the
24 parolee's or probationer's contentions.

25 A record of the proceedings shall be made and preserved.

26 **"§ 7B-2825. Effect of parole or probation violation hearing outside State.**

27 In any case of alleged parole or probation violation by a person being supervised in
28 another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or
29 administrative officer or agency in another state is authorized to hold a hearing on the
30 alleged violation. Upon receipt of the record of a parole or probation violation hearing
31 held in another state pursuant to a statute substantially similar to this Article, such record
32 shall have the same standing and effect as though the proceeding of which it is a record
33 was had before the appropriate officer or officers in this State, and any recommendations
34 contained in or accompanying the record shall be fully considered by the appropriate
35 officer or officers of this State in making disposition of the matter.

36 **"§ 7B-2826. Amendment to Interstate Compact on Juveniles concerning interstate
37 rendition of juveniles alleged to be delinquent.**

38 (a) This amendment shall provide additional remedies and shall be binding only as
39 among and between those party states which specifically execute the same.

40 (b) All provisions and procedures of G.S. 7B-2805 and G.S. 7B-2806 of the
41 Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with
42 being a delinquent by reason of a violation of any criminal law. Any juvenile, charged
43 with being a delinquent by reason of violating any criminal law, shall be returned to the

1 requesting state upon a requisition to the state where the juvenile may be found. A
2 petition in the case shall be filed in a court of competent jurisdiction in the requesting
3 state where the violation of criminal law is alleged to have been committed. The petition
4 may be filed regardless of whether the juvenile has left the state before or after the filing
5 of the petition. The requisition described in G.S. 7B-2805 of the Compact shall be
6 forwarded by the judge of the court in which the petition has been filed.

7 **"§ 7B-2827. Out-of-State Confinement Amendment.**

8 (a) The Out-of-State Confinement Amendment to the Interstate Compact on
9 Juveniles is hereby enacted into law and entered into by this State with all other states
10 legally joining therein in the form substantially as follows:

11 (1) Whenever the fully constituted judicial or administrative authorities in a
12 sending state shall determine that confinement of a probationer or
13 reconfinement of a parolee is necessary or desirable, the officials may
14 direct that the confinement or reconfinement be in an appropriate
15 institution for delinquent juveniles within the territory of the receiving
16 state, the receiving state to act in that regard solely as agent for the
17 sending state.

18 (2) Escapees and absconders who would otherwise be returned pursuant to
19 G.S. 7B-2805 of the Compact may be confined or reconfinement in the
20 receiving state pursuant to this amendment. In any case in which the
21 information and allegations are required to be made and furnished in a
22 requisition pursuant to G.S. 7B-2805, the sending state shall request
23 confinement or reconfinement in the receiving state. Whenever
24 applicable, detention orders, as provided in G.S. 7B-2805, may be
25 employed pursuant to this paragraph preliminary to disposition of the
26 escapee or absconder.

27 (3) The confinement or reconfinement of a parolee, probationer, escapee, or
28 absconder pursuant to this amendment shall require the concurrence of
29 the appropriate judicial or administrative authorities of the receiving
30 state.

31 (4) As used in this amendment: (i) 'sending state' means a sending state as
32 that term is used in G.S. 7B-2807 of the Compact or the state from
33 which a delinquent juvenile has escaped or absconded within the
34 meaning of G.S. 7B-2805 of the Compact; (ii) 'receiving state' means
35 any state, other than the sending state, in which a parolee, probationer,
36 escapee, or absconder may be found, provided that the state is a party to
37 this amendment.

38 (5) Every state which adopts this amendment shall designate at least one of
39 its institutions for delinquent juveniles as a 'Compact Institution' and
40 shall confine persons therein as provided in subdivision (1) of this
41 subsection unless the sending and receiving state in question shall make
42 specific contractual arrangements to the contrary. All states party to this
43 amendment shall have access to 'Compact Institutions' at all reasonable

1 hours for the purpose of inspecting the facilities thereof and for the
2 purpose of visiting such of the State's delinquents as may be confined in
3 the institution.

4 (6) Persons confined in 'Compact Institutions' pursuant to the terms of this
5 Compact shall at all times be subject to the jurisdiction of the sending
6 state and may at any time be removed from the 'Compact Institution' for
7 transfer to an appropriate institution within the sending state, for return
8 to probation or parole, for discharge, or for any purpose permitted by
9 the laws of the sending state.

10 (7) All persons who may be confined in a 'Compact Institution' pursuant to
11 the provisions of this amendment shall be treated in a reasonable and
12 humane manner. The fact of confinement or reconfinement in a
13 receiving state shall not deprive any person so confined or reconfined of
14 any rights which the person would have had if confined or reconfined in
15 an appropriate institution of the sending state. No agreement to submit
16 to confinement or reconfinement pursuant to the terms of this
17 amendment may be construed as a waiver of any rights which the
18 delinquent would have had if the person had been confined or
19 reconfined in any appropriate institution of the sending state, except that
20 the hearing or hearings, if any, to which a parolee, probationer, escapee,
21 or absconder may be entitled (prior to confinement or reconfinement) by
22 the laws of the sending state may be had before the appropriate judicial
23 or administrative officers of the receiving state. In this event, said
24 judicial and administrative officers shall act as agents of the sending
25 state after consultation with appropriate officers of the sending state.

26 (8) Any receiving state incurring costs or other expenses under this
27 amendment shall be reimbursed in the amount of the costs or other
28 expenses by the sending state unless the states concerned shall
29 specifically otherwise agree. Any two or more states party to this
30 amendment may enter into supplementary agreements determining a
31 different allocation of costs as among themselves.

32 (9) This amendment shall take initial effect when entered into by any two or
33 more states party to the Compact and shall be effective as to those states
34 which have specifically enacted this amendment. Rules and regulations
35 necessary to effectuate the terms of this amendment may be adopted by
36 the appropriate officers of those states which have enacted this
37 amendment.

38 (b) In addition to any institution in which the authorities of this State may
39 otherwise confine or order the confinement of a delinquent juvenile, the authorities may,
40 pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on
41 Juveniles, confine or order the confinement of a delinquent juvenile in a Compact
42 Institution within another party state.

43 "SUBCHAPTER III. JUVENILE RECORDS."

- 1 b. The results of any review by the State Child Fatality Prevention
2 Team, a local child fatality prevention team, a local community
3 child protection team, the Child Fatality Task Force, or any
4 public agency.
- 5 c. Confirmation of the receipt of all reports, accepted or not
6 accepted by the county department of social services, for
7 investigation of suspected child abuse, neglect, or maltreatment,
8 including confirmation that investigations were conducted, the
9 results of the investigations, a description of the conduct of the
10 most recent investigation and the services rendered, and a
11 statement of basis for the department's decision.
- 12 (3) Near fatality. – A case in which a physician determines that a child is in
13 serious or critical condition as the result of sickness or injury caused by
14 suspected abuse, neglect, or maltreatment.
- 15 (4) Public agency. – Any agency of State government or its subdivisions as
16 defined in G.S. 132-1(a).
- 17 (b) Notwithstanding any other provision of law and subject to the provisions of
18 subsections (c) through (f) of this section, a public agency shall disclose to the public,
19 upon request, the findings and information related to a child fatality or near fatality if:
- 20 (1) A person is criminally charged with having caused the child fatality or
21 near fatality; or
- 22 (2) The district attorney has certified that a person would be charged with
23 having caused the child fatality or near fatality but for that person's prior
24 death.
- 25 (c) Nothing herein shall be deemed to authorize access to the confidential records
26 in the custody of a public agency, or the disclosure to the public of the substance or
27 content of any psychiatric, psychological, or therapeutic evaluations or like materials or
28 information pertaining to the child or the child's family unless directly related to the
29 cause of the child fatality or near fatality, or the disclosure of information that would
30 reveal the identities of persons who provided information related to the suspected abuse,
31 neglect, or maltreatment of the child.
- 32 (d) Within five working days from the receipt of a request for findings and
33 information related to a child fatality or near fatality, a public agency shall consult with
34 the appropriate district attorney and provide the findings and information unless the
35 agency has a reasonable belief that release of the information:
- 36 (1) Is not authorized by subsections (a) and (b) of this section;
37 (2) Is likely to cause mental or physical harm or danger to a minor child
38 residing in the deceased or injured child's household;
39 (3) Is likely to jeopardize the State's ability to prosecute the defendant;
40 (4) Is likely to jeopardize the defendant's right to a fair trial;
41 (5) Is likely to undermine an ongoing or future criminal investigation; or
42 (6) Is not authorized by federal law and regulations.

1 (e) Any person whose request is denied may apply to the appropriate superior
2 court for an order compelling disclosure of the findings and information of the public
3 agency. The application shall set forth, with reasonable particularity, factors supporting
4 the application. The superior court shall have jurisdiction to issue such orders. Actions
5 brought pursuant to this section shall be set down for immediate hearing, and subsequent
6 proceedings in such actions shall be accorded priority by the appellate courts. After the
7 court has reviewed the specific findings and information, in camera, the court shall issue
8 an order compelling disclosure unless the court finds that one or more of the
9 circumstances in subsection (d) of this section exist.

10 (f) Access to criminal investigative reports and criminal intelligence information
11 of public law enforcement agencies and confidential information in the possession of the
12 State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force,
13 shall be governed by G.S. 132-1.4 and G.S. 7B-1413 respectively. Nothing herein shall
14 be deemed to require the disclosure or release of any information in the possession of a
15 district attorney.

16 (g) Any public agency or its employees acting in good faith in disclosing or
17 declining to disclose information pursuant to this section shall be immune from any
18 criminal or civil liability that might otherwise be incurred or imposed for such action.

19 (h) Nothing herein shall be deemed to narrow or limit the definition of 'public
20 records' as set forth in G.S. 132-1(a).

21 "ARTICLE 30.

22 "Juvenile Records and Social Reports of Delinquency and Undisciplined Cases.

23 "**§ 7B-3000. Juvenile court records.**

24 (a) The clerk shall maintain a complete record of all juvenile cases filed in the
25 clerk's office to be known as the juvenile record. The record shall include the summons
26 and petition, any secure or nonsecure custody order, any electronic or mechanical
27 recording of hearings, and any written motions, orders, or papers filed in the proceeding.

28 (b) All juvenile records shall be withheld from public inspection and, except as
29 provided in this subsection, may be examined only by order of the court. Except as
30 provided in subsection (c) of this section, the following persons may examine the
31 juvenile's record and obtain copies of written parts of the record without an order of the
32 court:

33 (1) The juvenile and the juvenile's attorney;

34 (2) The juvenile's parent, guardian, or custodian, or authorized
35 representative;

36 (3) The prosecutor; and

37 (4) Court counselors.

38 Except as provided in subsection (c) of this section, law enforcement officers sworn in
39 this State may examine, but not photocopy, the juvenile's record without an order of the
40 court.

41 (c) The court may direct the clerk to 'seal' any portion of a juvenile's record. The
42 clerk shall secure any sealed portion of a juvenile record in an envelope clearly marked
43 'SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT', or with

1 similar notice, and shall permit examination or copying of sealed portions of a juvenile's
2 record only pursuant to a court order specifically authorizing inspection or copying.

3 (d) Any portion of a juvenile's record consisting of an electronic or mechanical
4 recording of a hearing shall be transcribed only when notice of appeal has been timely
5 given and shall be copied electronically or mechanically, only by order of the court.
6 After the time for appeal has expired with no appeal having been filed, the court may
7 enter a written order directing the clerk to destroy the recording of the hearing.

8 (e) The juvenile's record of an adjudication of delinquency for an offense that
9 would be a felony if committed by an adult may be used by law enforcement, the
10 magistrate, and the prosecutor for pretrial release and plea negotiating decisions.

11 (f) The juvenile's record of an adjudication of delinquency for an offense that
12 would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a
13 subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b),
14 or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-
15 1340.16(d), or G.S. 15A-2000(e). The record may be so used only by order of the court in
16 the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera
17 hearing to determine whether the record in question is admissible.

18 (g) Except as provided in subsection (d) of this section, a juvenile's record shall be
19 destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Department of
20 Juvenile Justice.

21 **"§ 7B-3001. Other records relating to juveniles.**

22 (a) The chief court counselor shall maintain a record of all cases of juveniles under
23 supervision of court counselors, to be known as the court counselor's record. The court
24 counselor's record shall include family background information; reports of social,
25 medical, psychiatric, or psychological information concerning a juvenile or the juvenile's
26 family; probation reports; interviews with the juvenile's family; or other information the
27 court finds should be protected from public inspection in the best interests of the juvenile.

28 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all
29 law enforcement records and files concerning a juvenile shall be kept separate from the
30 records and files of adults and shall be withheld from public inspection. The following
31 persons may examine and obtain copies of law enforcement records and files concerning
32 a juvenile without an order of the court:

33 (1) The juvenile and the juvenile's attorney;

34 (2) The juvenile's parent, guardian, custodian, or authorized representative;

35 (3) The district attorney or prosecutor;

36 (4) Court counselors; and

37 (5) Law enforcement officers sworn in this State.

38 Otherwise, the records and files may be examined or copied only by order of the court.

39 (c) All records and files maintained by the Department pursuant to this Chapter
40 shall be withheld from public inspection. The following persons may examine and obtain
41 copies of the Department records and files concerning a juvenile without an order of the
42 court:

43 (1) The juvenile and the juvenile's attorney;

- (2) The juvenile's parent, guardian, custodian, or authorized representative;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Department.

"ARTICLE 31.

"Disclosure of Juvenile Information.

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

The chief district court judge in each district shall designate by standing order certain agencies in the district as 'agencies authorized to share information'. Agencies so designated shall share with one another, upon request, information that is 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 and shall continue to do so until 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, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. 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. 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.

"§ 7B-3101. Notification of schools when juveniles are alleged or found to be delinquent.

(a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

- (1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an offense that would be a felony if committed by an adult;
- (2) The court transfers jurisdiction over a juvenile to superior court under G.S. 7B-2200;
- (3) The court dismisses under G.S. 7B-2411 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;
- (4) The court issues a dispositional order under Article 25 of Chapter 7B of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult; or

1 adjudicated delinquent or convicted as an adult of any felony or
2 misdemeanor other than a traffic violation under the laws of the United
3 States, or the laws of this State or any other state;

4 (2) Verified affidavits of two persons, who are not related to the petitioner
5 or to each other by blood or marriage, that they know the character and
6 reputation of the petitioner in the community in which the petitioner
7 lives and that the petitioner's character and reputation are good;

8 (3) A statement that the petition is a motion in the cause in the case wherein
9 the petitioner was adjudicated delinquent or undisciplined.

10 The petition shall be served upon the district attorney in the district wherein
11 adjudication occurred. The district attorney shall have 10 days thereafter in which to file
12 any objection thereto and shall be duly notified as to the date of the hearing on the
13 petition.

14 (d) If the court, after hearing, finds that the petitioner satisfies the conditions set
15 out in subsections (a) or (b) of this section, the petitioner shall order and direct the clerk
16 and all law enforcement agencies to expunge their records of the adjudication including
17 all references to arrests, complaints, referrals, petitions, and orders.

18 (e) The clerk shall forward a certified copy of the order to the sheriff, chief of
19 police, or other law enforcement agency.

20 (f) Records of a juvenile adjudicated delinquent or undisciplined being maintained
21 by the chief court counselor, an intake counselor or a court counselor shall be retained or
22 disposed of as provided by the Department.

23 (g) Records of a juvenile adjudicated delinquent or undisciplined being maintained
24 by personnel at a residential facility operated by the Department, shall be retained or
25 disposed of as provided by the Department.

26 (h) Any person who was alleged to be delinquent as a juvenile and has attained the
27 age of 16 years, or was alleged to be undisciplined as a juvenile and has attained the age
28 of 18 years, may file a petition in the court in which the person was alleged to be
29 delinquent or undisciplined, for expunction of all juvenile records of the juvenile having
30 been alleged to be delinquent or undisciplined if the court dismissed the juvenile petition
31 without an adjudication that the juvenile was delinquent or undisciplined. The petition
32 shall be served on the chief court counselor in the district where the juvenile petition was
33 filed. The chief court counselor shall have 10 days thereafter in which to file a written
34 objection in the court. If no objection is filed, the court may grant the petition without a
35 hearing. If an objection is filed or the court so directs, a hearing shall be scheduled and
36 the chief court counselor shall be notified as to the date of the hearing. If the court finds
37 at the hearing that the petitioner satisfies the conditions specified herein, the court shall
38 order the clerk and the appropriate law enforcement agencies to expunge their records of
39 the allegations of delinquent or undisciplined acts including all references to arrests,
40 complaints, referrals, juvenile petitions, and orders. The clerk shall forward a certified
41 copy of the order of expunction to the sheriff, chief of police, or other appropriate law
42 enforcement agency, and to the chief court counselor, and these specified officials shall

1 immediately destroy all records relating to the allegations that the juvenile was delinquent
2 or undisciplined.

3 **"§ 7B-3201. Effect of expunction.**

4 (a) Whenever a juvenile's record is expunged, with respect to the matter in which
5 the record was expunged, the juvenile who is the subject of the record and the juvenile's
6 parent may inform any person or organization including employers, banks, credit
7 companies, insurance companies, and schools that the juvenile was not arrested, did not
8 appear before the court, and was not adjudicated delinquent or undisciplined.

9 (b) Notwithstanding subsection (a) of this section, in any delinquency case if the
10 juvenile is the defendant and chooses to testify or if the juvenile is not the defendant and
11 is called as a witness, the juvenile may be ordered to testify with respect to whether the
12 juvenile was adjudicated delinquent.

13 **"§ 7B-3202. Notice of expunction.**

14 Upon expunction of a juvenile's record, the clerk shall send a written notice to the
15 juvenile at the juvenile's last known address informing the juvenile that the record has
16 been expunged and with respect to the matter involved, the juvenile may inform any
17 person that the juvenile has no record. The notice shall inform the juvenile further that if
18 the matter involved is a delinquency record, the juvenile may inform any person that the
19 juvenile was not arrested or adjudicated delinquent except that upon testifying in a
20 delinquency proceeding, the juvenile may be required by a court to disclose that the
21 juvenile was adjudicated delinquent.

22 "ARTICLE 33.

23 "Computation of Recidivism Rates.

24 **"§ 7B-3300. Juvenile recidivism rates.**

25 (a) On an annual basis, the Department of Juvenile Justice shall compute the
26 recidivism rate of juveniles who are adjudicated delinquent for offenses that would be
27 Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are
28 adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative
29 Commission on Governmental Operations by December 31 each year.

30 (b) The chief court counselor of each judicial district shall forward to the
31 Department relevant information, as determined by the Department, regarding every
32 juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C,
33 D, or E felony if committed by an adult for the purpose of computing the statistics
34 required by this section.

35 **"SUBCHAPTER IV. PARENTAL AUTHORITY; EMANCIPATION.**

36 "ARTICLE 34.

37 "Parental Authority Over Juveniles.

38 **"§ 7B-3400. Juvenile under 18 subject to parents' control.**

39 Notwithstanding any other provision of law, any juvenile under 18 years of age,
40 except as provided in G.S. 7B-3401 and G.S. 7B-3402, shall be subject to the supervision
41 and control of the juvenile's parents.

42 **"§ 7B-3400.1. Definitions.**

43 The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter.

1 **"§ 7B-3401. Exceptions.**

2 This Article shall not apply to any juvenile under the age of 18 who is married or who
3 is serving in the armed forces of the United States, or who has been emancipated.

4 **"§ 7B-3402. No criminal liability created.**

5 This Article shall not be interpreted to place any criminal liability on a parent for any
6 act of the parent's juvenile 16 years of age or older.

7 **"§ 7B-3403. Enforcement.**

8 The provisions of this Article may be enforced by the parent, guardian, or person
9 standing in loco parentis to the child by filing a civil action in the district court of the
10 county where the child can be found or the county of the plaintiff's residence. Upon the
11 institution of such action by a verified complaint, alleging that the defendant juvenile has
12 left home or has left the place where the juvenile has been residing and refuses to return
13 and comply with the direction and control of the plaintiff, the court may issue an order
14 directing the juvenile personally to appear before the court at a specified time to be heard
15 in answer to the allegations of the plaintiff and to comply with further orders of the court.
16 Such orders shall be served by the sheriff upon the juvenile and upon any other person
17 named as a party defendant in such action. At the time of the issuance of the order
18 directing the juvenile to appear, the court may in the same order, or by separate order,
19 order the sheriff to enter any house, building, structure or conveyance for the purpose of
20 searching for the juvenile and serving the order and for the purpose of taking custody of
21 the person of the juvenile in order to bring the juvenile before the court. Any order issued
22 at said hearing shall be treated as a mandatory injunction and shall remain in full force
23 and effect until the juvenile reaches the age of 18, or until further orders of the court.
24 Within 30 days after the hearing on the original order, the juvenile, or anyone acting in
25 the juvenile's behalf, may file a verified answer to the complaint. Upon the filing of an
26 answer by or on behalf of the juvenile, any district court judge holding court in the
27 county or district court district as defined in G.S. 7A-133 where the action was instituted
28 shall have jurisdiction to hear the matter, without a jury, and to make findings of fact,
29 conclusions of law, and render judgment thereon. Appeals from the district court to the
30 Court of Appeals shall be allowed as in civil actions generally. The district court issuing
31 the original order or the district court hearing the matter after answer has been filed shall
32 also have authority to order that any person named defendant in the order or judgment
33 shall not harbor, keep, or allow the defendant juvenile to remain on the person's premises
34 or in the person's home. Failure of any defendant to comply with the terms of said order
35 or judgment shall be punishable as for contempt.

36 "ARTICLE 35.

37 "Emancipation.

38 **"§ 7B-3500. Who may petition.**

39 Any juvenile who is 16 years of age or older and who has resided in the same county
40 in North Carolina or on federal territory within the boundaries of North Carolina for six
41 months next preceding the filing of the petition may petition the court in that county for a
42 judicial decree of emancipation.

43 **"§ 7B-3501. Petition.**

1 The petition shall be signed and verified by the petitioner and shall contain the
2 following information:

- 3 (1) The full name of the petitioner and the petitioner's birth date, and state
4 and county of birth;
- 5 (2) A certified copy of the petitioner's birth certificate;
- 6 (3) The name and last known address of the parent, guardian, or custodian;
- 7 (4) The petitioner's address and length of residence at that address;
- 8 (5) The petitioner's reasons for requesting emancipation; and
- 9 (6) The petitioner's plan for meeting the petitioner's needs and living
10 expenses which plan may include a statement of employment and wages
11 earned that is verified by the petitioner's employer.

12 **"§ 7B-3502. Summons.**

13 A copy of the filed petition along with a summons shall be served upon the
14 petitioner's parent, guardian, or custodian who shall be named as respondents. The
15 summons shall include the time and place of the hearing and shall notify the respondents
16 to file written answer within 30 days after service of the summons and petition. In the
17 event that personal service cannot be obtained, service shall be in accordance with G.S.
18 1A-1, Rule 4(j).

19 **"§ 7B-3503. Hearing.**

20 The court, sitting without a jury, shall permit all parties to present evidence and to
21 cross-examine witnesses. The petitioner has the burden of showing by a preponderance of
22 the evidence that emancipation is in the petitioner's best interests. Upon finding that
23 reasonable cause exists, the court may order the juvenile to be examined by a psychiatrist,
24 a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's
25 mental or physical condition. The court may continue the hearing and order investigation
26 by a court counselor or by the county department of social services to substantiate
27 allegations of the petitioner or respondents.

28 No husband-wife or physician-patient privilege shall be grounds for excluding any
29 evidence in the hearing.

30 **"§ 7B-3504. Considerations for emancipation.**

31 In determining the best interests of the petitioner and the need for emancipation, the
32 court shall review the following considerations:

- 33 (1) The parental need for the earnings of the petitioner;
- 34 (2) The petitioner's ability to function as an adult;
- 35 (3) The petitioner's need to contract as an adult or to marry;
- 36 (4) The employment status of the petitioner and the stability of the
37 petitioner's living arrangements;
- 38 (5) The extent of family discord which may threaten reconciliation of the
39 petitioner with the petitioner's family;
- 40 (6) The petitioner's rejection of parental supervision or support; and
- 41 (7) The quality of parental supervision or support.

42 **"§ 7B-3505. Final decree of emancipation.**

1 After reviewing the considerations for emancipation, the court may enter a decree of
2 emancipation if the court determines:

- 3 (1) That all parties are properly before the court or were duly served and
4 failed to appear and that time for filing an answer has expired; and
5 (2) That the petitioner has shown a proper and lawful plan for adequately
6 providing for the petitioner's needs and living expenses; and
7 (3) That the petitioner is knowingly seeking emancipation and fully
8 understands the ramifications of the act; and
9 (4) That emancipation is in the best interests of the petitioner.

10 The decree shall set out the court's findings.

11 If the court determines that the criteria in subdivisions (1) through (4) are not met, the
12 court shall order the proceeding dismissed.

13 **"§ 7B-3506. Costs of court.**

14 The court may tax the costs of the proceeding to any party or may, for good cause,
15 order the costs remitted.

16 The clerk may collect costs for furnishing to the petitioner a certificate of
17 emancipation which shall recite the name of the petitioner and the fact of the petitioner's
18 emancipation by court decree and shall have the seal of the clerk affixed thereon.

19 **"§ 7B-3507. Legal effect of final decree.**

20 As of entry of the final decree of emancipation:

- 21 (1) The petitioner has the same right to make contracts and conveyances, to
22 sue and to be sued, and to transact business as if the petitioner were an
23 adult.
24 (2) The parent or guardian is relieved of all legal duties and obligations
25 owed to the petitioner and is divested of all rights with respect to the
26 petitioner.
27 (3) The decree is irrevocable.

28 Notwithstanding any other provision of this section, a decree of emancipation shall not
29 alter the application of G.S. 14-326.1 or the petitioner's right to inherit property by
30 intestate succession.

31 **"§ 7B-3508. Appeals.**

32 Any petitioner, parent, or guardian who is a party to a proceeding under this Article
33 may appeal from any order of disposition to the Court of Appeals provided that notice of
34 appeal is given in open court at the time of the hearing or in writing within 10 days after
35 the hearing. Pending disposition of an appeal, the court may enter a temporary order
36 affecting the custody or placement of the petitioner as the court finds to be in the best
37 interests of the petitioner or the State.

38 **"§ 7B-3509. Application of common law.**

39 A married juvenile is emancipated by this Article. All other common-law provisions
40 for emancipation are superseded by this Article.

41 "ARTICLE 36.

42 "Judicial Consent for Emergency Surgical or Medical Treatment.

43 **"§ 7B-3600. Judicial authorization of emergency treatment; procedure.**

1 A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the
2 General Statutes, whose physician is barred from rendering necessary treatment by reason
3 of parental refusal to consent to treatment, may receive treatment with court authorization
4 under the following procedure:

5 (1) The physician shall sign a written statement setting out:

6 a. The treatment to be rendered and the emergency need for
7 treatment;

8 b. The refusal of the parent, guardian, or person standing in loco
9 parentis to consent to the treatment; and

10 c. The impossibility of contacting a second physician for a
11 concurring opinion on the need for treatment in time to prevent
12 immediate harm to the juvenile.

13 (2) Upon examining the physician's written statement prescribed in
14 subdivision (1) of this section and finding:

15 a. That the statement is in accordance with this Article, and

16 b. That the proposed treatment is necessary to prevent immediate
17 harm to the juvenile.

18 The court may issue a written authorization for the proposed treatment
19 to be rendered.

20 (3) In acute emergencies in which time may not permit implementation of
21 the written procedure set out in subdivisions (1) and (2) of this section,
22 the court may authorize treatment in person or by telephone upon
23 receiving the oral statement of a physician satisfying the requirements
24 of subdivision (1) of this section and upon finding that the proposed
25 treatment is necessary to prevent immediate harm to the juvenile.

26 (4) The court's authorization for treatment overriding parental refusal to
27 consent should not be given without attempting to offer the parent an
28 opportunity to state the reasons for refusal; however, failure of the court
29 to hear the parent's objections shall not invalidate judicial authorization
30 under this Article.

31 (5) The court's authorization for treatment under subdivisions (1) and (2) of
32 this section shall be issued in duplicate. One copy shall be given to the
33 treating physician and the other copy shall be attached to the physician's
34 written statement and filed as a juvenile proceeding in the office of the
35 clerk of court.

36 (6) The court's authorization for treatment under subdivision (3) of this
37 section shall be reduced to writing as soon as possible, supported by the
38 physician's written statement as prescribed in subdivision (1) of this
39 section and shall be filed as prescribed in subdivision (5) of this section.

40 The court's authorization for treatment under this Article shall have the same effect as
41 parental consent for treatment.

42 Following the court's authorization for treatment and after giving notice to the
43 juvenile's parent, the court shall conduct a hearing in order to provide for payment for the

1 treatment rendered. The court may order the parent or other responsible parties to pay the
2 cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the
3 cost shall be a charge upon the county when so ordered.

4 This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903,
5 7B-2501, and 7B-2504.

6 **"SUBCHAPTER V. PLACEMENT OF JUVENILES.**

7 **"ARTICLE 37.**

8 **"Placing or Adoption of Juvenile Delinquents or Dependents.**

9 **"§ 7B-3700. Consent required for bringing child into State for placement or**
10 **adoption.**

11 (a) No person, agency, association, institution, or corporation shall bring or send
12 into the State any child for the purpose of giving custody of the child to some person in
13 the State or procuring adoption by some person in the State without first obtaining the
14 written consent of the Department of Health and Human Services.

15 (b) The person with whom a child is placed for either of the purposes set out in
16 subsection (a) of this section shall be responsible for the child's proper care and training.
17 The Department of Health and Human Services or its agents shall have the same right of
18 visitation and supervision of the child and the home in which it is placed as in the case of
19 a child placed by the Department or its agents as long as the child shall remain within the
20 State and until the child shall have reached the age of 18 years or shall have been legally
21 adopted.

22 **"§ 7B-3701. Bond required.**

23 The Social Services Commission may, in its discretion, require of a person, agency,
24 association, institution, or corporation which brings or sends a child into the State with
25 the written consent of the Department of Health and Human Services, as provided by
26 G.S. 7B-3700, a continuing bond in a penal sum not in excess of one thousand dollars
27 (\$1,000) with such conditions as may be prescribed and such sureties as may be approved
28 by the Department of Health and Human Services. Said bond shall be made in favor of
29 and filed with the Department of Health and Human Services with the premium prepaid
30 by the said person, agency, association, institution or corporation desiring to place such
31 child in the State.

32 **"§ 7B-3702. Consent required for removing child from State.**

33 No child shall be taken or sent out of the State for the purpose of placing the child in a
34 foster home or in a child-caring institution without first obtaining the written consent of
35 the Department of Health and Human Services. The foster home or child-caring
36 institution in which the child is placed shall report to the Department of Health and
37 Human Services at such times as the Department of Health and Human Services may
38 direct as to the location and well-being of such child until the child shall have reached the
39 age of 18 years or shall have been legally adopted.

40 **"§ 7B-3703. Violation of Article a misdemeanor.**

41 Every person acting for himself or for an agency who violates any of the provisions of
42 this Article or who shall intentionally make any false statements to the Social Services
43 Commission or the Secretary or an employee thereof acting for the Department of Health

1 and Human Services in an official capacity in the placing or adoption of juvenile
2 delinquents or dependents shall, upon conviction thereof, be guilty of a Class 2
3 misdemeanor.

4 **"§ 7B-3704. Definitions.**

5 The term 'Department' wherever used in this Article shall be construed to mean the
6 Department of Health and Human Services.

7 **"§ 7B-3705. Application of Article.**

8 None of the provisions of this Article shall apply when a child is brought into or sent
9 into, or taken out of, or sent out of the State, by the guardian of the person of such child,
10 or by a parent, stepparent, grandparent, uncle or aunt of such child, or by a brother, sister,
11 half brother, or half sister of such child, if such brother, sister, half brother, or half sister
12 is 18 years of age or older.

13 **"ARTICLE 38.**

14 **"Interstate Compact on the Placement of Children.**

15 **"§ 7B-3800. Adoption of Compact.**

16 The Interstate Compact on the Placement of Children is hereby enacted into law and
17 entered into with all other jurisdictions legally joining therein in a form substantially as
18 contained in this Article. It is the intent of the General Assembly that Article 4 of this
19 Chapter shall govern interstate placements of children between North Carolina and any
20 other jurisdictions not a party to this Compact. It is the intent of the General Assembly
21 that Chapter 48 of the General Statutes shall govern the adoption of children within the
22 boundaries of North Carolina.

23 **ARTICLE I. PURPOSE AND POLICY.**

24 It is the purpose and policy of the party states to cooperate with each other in the
25 interstate placement of children to the end that:

26 (a) Each child requiring placement shall receive the maximum opportunity to be
27 placed in a suitable environment and with persons or institutions having appropriate
28 qualifications and facilities to provide a necessary and desirable degree and type of care.

29 (b) The appropriate authorities in a state where a child is to be placed may have
30 full opportunity to ascertain the circumstances of the proposed placement, thereby
31 promoting full compliance with applicable requirements for the protection of the child.

32 (c) The proper authorities of the state from which the placement is made may
33 obtain the most complete information on the basis of which to evaluate a projected
34 placement before it is made.

35 (d) Appropriate jurisdictional arrangements for the care of children will be
36 promoted.

37 **ARTICLE II. DEFINITIONS.**

38 As used in this Compact:

39 (a) 'Child' means a person who, by reason of minority, is legally subject to
40 parental, guardianship or similar control.

41 (b) 'Sending agency' means a party state officer or employee thereof; a
42 subdivision of a party state, or officer or employee thereof; a court of a
43 party state; a person, corporation, association, charitable agency or other

1 entity which sends, brings, or causes to be sent or brought any child to
2 another party state.

3 (c) 'Receiving state' means the state to which a child is sent, brought, or
4 caused to be sent or brought, whether by public authorities or private
5 persons or agencies, and whether for placement with state or local
6 public authorities of [or] for placement with private agencies or persons.

7 (d) 'Placement' means the arrangement for the care of a child in a family
8 free or boarding home or in a child-caring agency or institution but does
9 not include any institution caring for the mentally ill, mentally defective
10 or epileptic or any institution primarily educational in character, and any
11 hospital or other medical facility.

12 (e) 'Appropriate public authorities' as used in Article III shall, with
13 reference to this State, mean the Department of Health and Human
14 Services and said agency shall receive and act with reference to notices
15 required by Article III.

16 (f) 'Appropriate authority in the receiving state' as used in paragraph (a) of
17 Article V shall, with reference to this State, means the Secretary.

18 (g) 'Executive head' as used in Article VII means the Governor.

19 **ARTICLE III. CONDITIONS FOR PLACEMENT.**

20 (a) No sending agency shall send, bring, or cause to be sent or brought into any
21 other party state any child for placement in foster care or as a preliminary to a possible
22 adoption unless the sending agency shall comply with each and every requirement set
23 forth in this Article and with the applicable laws of the receiving state governing the
24 placement of children therein.

25 (b) Prior to sending, bringing or causing any child to be sent or brought into a
26 receiving state for placement in foster care or as a preliminary to a possible adoption, the
27 sending agency shall furnish the appropriate public authorities in the receiving state
28 written notice of the intention to send, bring, or place the child in the receiving state. The
29 notice shall contain:

30 (1) The name, date, and place of birth of the child.

31 (2) The identity and address or addresses of the parents or legal guardian.

32 (3) The name and address of the person, agency or institution to or with
33 which the sending agency proposes to send, bring, or place the child.

34 (4) A full statement of the reasons for such proposed action and evidence of
35 the authority pursuant to which the placement is proposed to be made.

36 (c) Any public officer or agency in a receiving state which is in receipt of a notice
37 pursuant to paragraph (b) of this Article may request of the sending agency, or any other
38 appropriate officer or agency of or in the sending agency's state, and shall be entitled to
39 receive therefrom, such supporting or additional information as it may deem necessary
40 under the circumstances to carry out the purpose and policy of this Compact.

41 (d) The child shall not be sent, brought, or caused to be sent or brought into the
42 receiving state until the appropriate public authorities in the receiving state shall notify

1 the sending agency, in writing, to the effect that the proposed placement does not appear
2 to be contrary to the interests of the child.

3 **ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT.**

4 The sending, bringing, or causing to be sent or brought into any receiving state of a
5 child in violation of the terms of this Compact shall constitute a violation of the laws
6 respecting the placement of children of both the state in which the sending agency is
7 located or from which it sends or brings the child and of the receiving state. Such
8 violation may be punished or subjected to penalty in either jurisdiction in accordance
9 with its laws. In addition to liability for any such punishment or penalty, any such
10 violation shall constitute full and sufficient grounds for the suspension or revocation of
11 any license, permit, or other legal authorization held by the sending agency which
12 empowers or allows it to place, or care for children.

13 **ARTICLE V. RETENTION OF JURISDICTION.**

14 (a) The sending agency shall retain jurisdiction over the child sufficient to
15 determine all matters in relation to the custody, supervision, care, treatment, and
16 disposition of the child which it would have had if the child had remained in the sending
17 agency's state, until the child is adopted, reaches majority, becomes self-supporting or is
18 discharged with the concurrence of the appropriate authority in the receiving state. Such
19 jurisdiction shall also include the power to effect or cause the return of the child or its
20 transfer to another location and custody pursuant to law. The sending agency shall
21 continue to have financial responsibility for support and maintenance of the child during
22 the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction
23 by a receiving state sufficient to deal with an act of delinquency or crime committed
24 therein.

25 (b) When the sending agency is a public agency, it may enter into an agreement
26 with an authorized public or private agency in the receiving state providing for the
27 performance of one or more services in respect of such case by the latter as agent for the
28 sending agency.

29 (c) Nothing in this Compact shall be construed to prevent a private charitable
30 agency authorized to place children in the receiving state from performing services or
31 acting as agent in that state for a private charitable agency of the sending state; nor to
32 prevent the agency in the receiving state from discharging financial responsibility for the
33 support and maintenance of a child who has been placed on behalf of the sending agency
34 without relieving the responsibility set forth in paragraph (a) hereof.

35 **ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN.**

36 A child adjudicated delinquent may be placed in an institution in another party
37 jurisdiction pursuant to this Compact but no such placement shall be made unless the
38 child is given a court hearing on notice to the parent or guardian with opportunity to be
39 heard, prior to the child's being sent to such other party jurisdiction for institutional care
40 and the court finds that:

- 41 (1) Equivalent facilities for the child are not available in the sending
42 agency's jurisdiction; and

1 (2) Institutional care in the other jurisdiction is in the best interests of the
2 child and will not produce undue hardship.

3 **ARTICLE VII. COMPACT ADMINISTRATOR.**

4 The executive head of each jurisdiction party to this Compact shall designate an
5 officer who shall be general coordinator of activities under this Compact in the officer's
6 jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall
7 have power to promulgate rules and regulations to carry out more effectively the terms
8 and provisions of this Compact.

9 **ARTICLE VIII. LIMITATIONS.**

10 This Compact shall not apply to: (a) the sending or bringing of a child into a receiving
11 state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or
12 aunt, or the child's guardian and leaving the child with any such relative or nonagency
13 guardian in the receiving state. (b) Any placement, sending or bringing of a child into a
14 receiving state pursuant to any other interstate compact to which both the state from
15 which the child is sent or brought and the receiving state are party, or to any other
16 agreement between said states which has the force of law.

17 **ARTICLE IX. ENACTMENT AND WITHDRAWAL.**

18 This Compact shall be open to joinder by any state, territory or possession of the
19 United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the
20 consent of Congress, the government of Canada or any province thereof. It shall become
21 effective with respect to any such jurisdiction when such jurisdiction has enacted the
22 same into law. Withdrawal from this Compact shall be by the enactment of a statute
23 repealing the same, but shall not take effect until two years after the effective date of such
24 statute and until written notice of the withdrawal has been given by the withdrawing state
25 to the governor of each other party jurisdiction. Withdrawal of a party state shall not
26 affect the rights, duties and obligations under this Compact of any sending agency therein
27 with respect to a placement made prior to the effective date of withdrawal.

28 **ARTICLE X. CONSTRUCTION AND SEVERABILITY.**

29 The provisions of this Compact shall be liberally construed to effectuate the purposes
30 thereof. The provisions of this Compact shall be severable and if any phrase, clause,
31 sentence or provision of this Compact is declared to be contrary to the constitution of any
32 party state or of the United States or the applicability thereof to any government, agency,
33 person or circumstance is held invalid, the validity of the remainder of this Compact and
34 the applicability thereof to any government, agency, person or circumstance shall not be
35 affected thereby. If this Compact shall be held contrary to the constitution of any state
36 party thereto, the Compact shall remain in full force and effect as to the remaining states
37 and in full force and effect as to the state affected as to all severable matters.

38 **§ 7B-3801. Financial responsibility under Compact.**

39 Financial responsibility for any child placed pursuant to the provisions of the
40 Interstate Compact on the Placement of Children shall be determined in accordance with
41 the provisions of Article V thereof in the first instance. However, in the event of partial or
42 complete default of performance thereunder, the provisions of any other state laws fixing
43 responsibility for the support of children also may be invoked.

1 **"§ 7B-3802. Agreements under Compact.**

2 The officers and agencies of this State and its subdivisions having authority to place
3 children are hereby empowered to enter into agreements with appropriate officers or
4 agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate
5 Compact on the Placement of Children. Any such agreement which contains a financial
6 commitment or imposes a financial obligation on this State or subdivision or agency
7 thereof shall not be binding unless it has the approval in writing of the Secretary of the
8 Department of Health and Human Services in the case of the State and of the county
9 director of social services in the case of a county or other subdivision of the State.

10 **"§ 7B-3803. Visitation, inspection or supervision.**

11 Any requirements for visitation, inspection or supervision of children, homes,
12 institutions or other agencies in another party state which may apply under the laws of
13 this State shall be deemed to be met if performed pursuant to an agreement entered into
14 by appropriate officers or agencies of this State or a subdivision thereof as contemplated
15 by paragraph (b) of Article V of the Interstate Compact on the Placement of Children.

16 **"§ 7B-3804. Compact to govern between party states.**

17 The provisions of Article 37 of this Chapter shall not apply to placements made
18 pursuant to the Interstate Compact on the Placement of Children.

19 **"§ 7B-3805. Placement of delinquents.**

20 Any court having jurisdiction to place delinquent children may place such a child in
21 an institution or in another state pursuant to Article VI of the Interstate Compact on the
22 Placement of Children and shall retain jurisdiction as provided in Article V thereof.

23 **"§ 7B-3806. Compact Administrator.**

24 The Governor is hereby authorized to appoint a Compact Administrator in accordance
25 with the terms of said Article VII."

26 Section 5. Article 81B of Chapter 15A of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 15A-1340.16B. Sentencing of juveniles.**

29 (a) If a juvenile was under 16 years of age at the time the juvenile committed a
30 felony offense and has been convicted of the offense, the court shall impose a sentence in
31 accordance with G.S. 15A-1340.17. Notwithstanding other requirements of this Chapter,
32 the court may suspend the sentence and place the juvenile on probation on the condition
33 that the juvenile successfully complete any of the applicable terms and conditions set
34 forth in G.S. 15A-1343 and G.S. 7B-2504 that the court deems appropriate. In
35 determining the appropriate terms and conditions, the court shall consider the
36 dispositional report of the chief court counselor.

37 (b) In no event shall a person placed on probation pursuant to this section be
38 confined by the Department past that person's nineteenth birthday.

39 (c) In determining whether to suspend the sentence and place the juvenile on
40 probation, the court shall consider:

41 (1) The age of the juvenile;

42 (2) The physical, mental, and emotional needs of the juvenile; and

1 (3) The resources available to the juvenile pursuant to G.S. 7B-2504 and the
2 applicability of the resources to the needs of the juvenile.

3 (d) If the court suspends the sentence of the juvenile pursuant to subsection (a) of
4 this section, the court shall order that a probation officer and a juvenile court counselor be
5 assigned to supervise and monitor the progress of the juvenile. Except as provided in
6 subsection (d) of this section, any violations of probation shall be determined and heard
7 pursuant to Article 82 of Chapter 15A of the General Statutes.

8 (e) In the judgment suspending the sentence, the court shall limit jurisdiction to
9 alter or revoke the suspension. This limitation requires that the suspension may be
10 reduced, continued, extended, modified, or revoked only by the sentencing judge or, if
11 the sentencing judge is no longer on the bench, by a presiding judge in the court where
12 the juvenile was sentenced.

13 (f) Parts 1, 2, and 3 of Article 27A of Chapter 14 of the General Statutes applies to
14 juveniles sentenced for offenses set forth in G.S. 14-208.6(5)."

15 Section 6. G.S. 115C-404 reads as rewritten:

16 **"§ 115C-404. Use of juvenile court information.**

17 (a) Written notifications received in accordance with G.S. 7A-675.1 G.S. 7B-3101
18 and information gained from examination of juvenile records in accordance with G.S.
19 7B-3100 are confidential records, are not public records as defined under G.S.132-1, and
20 shall not be made part of the student's official record under G.S. 115C-402. Immediately
21 upon receipt, the principal shall maintain these documents in a safe, locked record storage
22 that is separate from the student's other school records. ~~The principal shall maintain these~~
23 ~~documents until the principal receives notification that the judge dismissed the petition~~
24 ~~under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court~~
25 ~~under G.S. 7A-608, or the judge granted the student's petition for expunction of the~~
26 ~~records. At that time, the~~ The principal shall shred, burn, or otherwise destroy the
27 documents received in accordance with G.S. 7B-3100 to protect the confidentiality of this
28 ~~information. the information when the principal receives notification that the court~~
29 ~~dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the~~
30 ~~student to superior court under G.S. 7B-2200, or the court granted the student's petition~~
31 ~~for expunction of the records. The principal shall shred, burn, or otherwise destroy all~~
32 ~~information gained from examination of juvenile records in accordance with G.S. 7B-~~
33 ~~3100 when the principal finds that the school no longer needs the information to protect~~
34 ~~the safety of or to improve the education opportunities for the student or others. In no~~
35 ~~case shall the principal make a copy of these documents.~~

36 (b) Documents received under this section ~~may~~ shall be used only to protect the
37 safety of or to improve the education opportunities for the student or others. Information
38 gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to
39 suspend or expel a student. Upon receipt of each document, the principal shall share the
40 document with those individuals who have (i) direct guidance, teaching, or supervisory
41 responsibility for the student, and (ii) a specific need to know in order to protect the
42 safety of the student or others. Those individuals shall indicate in writing that they have
43 read the document and that they agree to maintain its confidentiality. Failure to maintain

1 the confidentiality of these documents as required by this section is grounds for the
2 dismissal of an employee who is not a career employee and is grounds for dismissal of an
3 employee who is a career employee, in accordance with G.S. 115C-325(e)(1)i.

4 (c) If the student graduates, withdraws from school, is suspended for the
5 remainder of the school year, is expelled, or transfers to another school, the principal
6 shall return ~~the~~ all documents not destroyed in accordance with subsection (a) of this
7 section to the juvenile court counselor and, if applicable, shall provide the counselor with
8 the name and address of the school to which the student is transferring."

9 Section 7. G.S. 143-661(a) reads as rewritten:

10 "(a) The Criminal Justice Information Network Governing Board is established
11 within the Department of Justice, State Bureau of Investigation, to operate the State's
12 Criminal Justice Information Network, the purpose of which shall be to provide the
13 governmental and technical information systems infrastructure necessary for
14 accomplishing State and local governmental public safety and justice functions in the
15 most effective manner by appropriately and efficiently sharing criminal justice and
16 juvenile justice information among law enforcement, judicial, and corrections agencies.
17 The Board is established within the Department of Justice, State Bureau of Investigation,
18 for organizational and budgetary purposes only and the Board shall exercise all of its
19 statutory powers in this Article independent of control by the Department of Justice."

20 Section 8. (a) G.S. 164-36 reads as rewritten:

21 "**§ 164-36. Powers and duties.**

22 (a) Sentences established for violations of the State's criminal laws should be
23 based on the established purposes of our criminal justice and corrections systems. The
24 Commission shall evaluate sentencing laws and policies in relationship to both the stated
25 purposes of the criminal justice and corrections systems and the availability of sentencing
26 options. The Commission shall make recommendations to the General Assembly for the
27 modification of sentencing laws and policies, and for the addition, deletion, or expansion
28 of sentencing options as necessary to achieve policy goals. The Commission shall make a
29 report of its recommendations, including any recommended legislation, to the General
30 Assembly annually.

31 (b) Dispositions established for violations by juveniles of the State's criminal laws
32 should be based on the established purposes set forth in Chapter 7B of the General
33 Statutes. The Commission shall evaluate dispositional laws and policies in relationship to
34 both the stated purposes of Chapter 7B of the General Statutes and the availability of
35 dispositional alternatives. The Commission shall make recommendations to the General
36 Assembly for the modification of dispositional laws and policies, and for the addition,
37 deletion, or expansion of dispositional alternatives as necessary to achieve policy goals.
38 The Commission shall make a report of its recommendations, including any
39 recommended legislation, to the General Assembly annually."

40 (b) G.S. 164-40 reads as rewritten:

41 "**§ 164-40. Correction population simulation model; Department of Juvenile**
42 **Justice facilities population simulation model.**

1 (a) The Commission shall develop a correctional population simulation model, and
2 shall have first priority to apply the model to a given fact situation, or theoretical change
3 in the sentencing laws, when requested to do so by the Chairman, the Executive Director,
4 or the Commission as a whole.

5 The Executive Director or the Chairman shall make the model available to respond to
6 inquiries by any State legislator, or by the Secretary of the Department of Correction, in
7 second priority to the work of the Commission.

8 (b) The Commission shall develop a Department of Juvenile Justice facilities
9 population simulation model, and shall have first priority to apply the model to a given
10 fact situation, or theoretical change in the dispositional laws set forth in Chapter 7B of the
11 General Statutes, when requested to do so by the Chairman, the Executive Director, or
12 the Commission as a whole.

13 The Executive Director or the Chairman shall make the model available to respond to
14 inquiries by any State legislator, or by the Secretary of the Department of Juvenile
15 Justice, in second priority to the work of the Commission."

16 (c) G.S. 164-42.1 reads as rewritten:

17 "**§ 164-42.1. Policy recommendations.**

18 (a) Using the studies of the Special Committee on Prisons, the Governor's Crime
19 Commission, and other analyses, including testimony from representatives of the bodies
20 that conducted the analyses, the Commission shall:

- 21 (1) Determine the long-range needs of the criminal justice and corrections
22 systems and recommend policy priorities for those systems;
- 23 (2) Determine the long-range information needs of the criminal justice and
24 corrections systems and acquire that information as it becomes
25 available;
- 26 (3) Identify critical problems in the criminal justice and corrections systems
27 and recommend strategies to solve those problems;
- 28 (4) Assess the cost-effectiveness of the use of State and local funds in the
29 criminal justice and corrections systems;
- 30 (5) Recommend the goals, priorities, and standards for the allocation of
31 criminal justice and corrections funds;
- 32 (6) Recommend means to improve the deterrent and rehabilitative
33 capabilities of the criminal justice and corrections systems;
- 34 (7) Propose plans, programs, and legislation for improving the effectiveness
35 of the criminal justice and corrections systems;
- 36 (8) Determine the sentencing structures for parole decisions;
- 37 (9) Examine the impact of mandatory sentence lengths as opposed to the
38 deterrent effect of minimum mandatory terms of imprisonment;
- 39 (10) Examine good time and gain time practices;
- 40 (11) Study the value of presentence reports;
- 41 (12) Consider the rehabilitative potential of the offender and the appropriate
42 rehabilitative placement;
- 43 (13) Examine the impact of imprisonment on families of offenders;

- 1 (14) Examine the impact of imprisonment on the ability of the offender to
2 make restitution; ~~and~~
3 (15) Study the need for an amendment to Article XI, Section 1 of the State
4 Constitution to include restitution, restraints on liberty, work programs,
5 or other punishments to the list of punishments allowed under that
6 section; and
7 (16) Study the costs and consequences of criminal behavior in North
8 Carolina and consider the value of preventing crimes by using
9 incarceration to deter both prospective criminals and convicted
10 criminals from future crimes.

11 (b) Using the studies and analyses available, including testimony from
12 representatives of the bodies that conducted the analyses, the Commission shall:

- 13 (1) Determine the long-range needs of the juvenile justice system and
14 recommend policy priorities for that system;
15 (2) Determine the long-range information needs of the juvenile justice
16 system and acquire that information as it becomes available;
17 (3) Identify critical problems in the juvenile justice system and recommend
18 strategies to solve those problems;
19 (4) Assess the cost-effectiveness of the use of State and local funds in the
20 juvenile justice system; and
21 (5) Recommend the goals, priorities, and standards for the allocation of
22 juvenile justice funds."

23 (d) G.S. 164-43 reads as rewritten:

24 "**§ 164-43. Priority of duties; reports; continuing duties.**

25 (a) The Commission shall have two primary duties, and other secondary duties
26 essential to accomplishing the primary ones. The Commission may establish
27 subcommittees or advisory committees composed of Commission members to
28 accomplish duties imposed by this Article.

29 It is the legislative intent that the Commission attach priority to accomplish the
30 following primary duties:

- 31 (1) The classification of criminal offenses as described in G.S. 164-41 and
32 the formulation of sentencing structures as described in G.S. 164-42;
33 and
34 (2) The formulation of proposals and recommendations as described in G.S.
35 164-42.1 and G.S. 164-42.2.

36 (b) The Commission shall report its findings and recommendations to the 1991
37 General Assembly, 1991 Regular Session. The report shall describe the status of the
38 Commission's work, and shall include any completed policy recommendations.

39 (c) The Commission shall report on its progress in formulating recommendations
40 for the classification and ranges of punishment for felonies and misdemeanors, required
41 by G.S. 164-41, and sentencing structures, established pursuant to G.S. 164-42, to the
42 1991 General Assembly, 1992 Regular Session, and shall make a final report on these

1 recommendations no later than 30 days after the convening of the 1993 Session of the
2 General Assembly.

3 (d) Once the primary duties of the Commission have been accomplished, it shall
4 have the continuing duty to monitor and review the criminal justice and corrections
5 systems and the juvenile justice system in this State to ensure that ~~sentencing remains~~
6 sentences and dispositions remain uniform and consistent, and that the goals and policies
7 established by the State are being implemented by sentencing and dispositional practices,
8 and it shall recommend methods by which this ongoing work may be accomplished and
9 by which the correctional population simulation model and the Department of Juvenile
10 Justice facilities population simulation model developed pursuant to G.S. 164-40 shall
11 continue to be used by the State.

12 (e) Upon adoption of a system for the classification of offenses formulated
13 pursuant to G.S. 164-41, the Commission or its successor shall review all proposed
14 legislation which creates a new criminal offense, changes the classification of an offense,
15 or changes the range of punishment or dispositional level for a particular classification,
16 and shall make recommendations to the General Assembly.

17 (f) In the case of a new criminal offense, the Commission or its successor shall
18 determine whether the proposal places the offense in the correct classification, based
19 upon the considerations and principles set out in G.S. 164-41. If the proposal does not
20 assign the offense to a classification, it shall be the duty of the Commission or its
21 successor to recommend the proper classification placement.

22 (g) In the case of proposed changes in the classification of an offense or changes in
23 the range of punishment or dispositional level for a classification, the Commission or its
24 successor shall determine whether such a proposed change is consistent with the
25 considerations and principles set out in G.S. 164-41, and shall report its findings to the
26 General Assembly.

27 (h) The Commission or its successor shall meet within 10 days after the last day
28 for filing general bills in the General Assembly for the purpose of reviewing bills as
29 described in subsections (e), (f), and (g). The Commission or its successor shall include
30 in its report on a bill an analysis based on an application of the correctional population
31 simulation model or the Department of Juvenile Justice facilities population simulation
32 model to the provisions of the bill."

33 (e) G.S. 164-44 reads as rewritten:

34 **"§ 164-44. Statistical information; financial or other aid.**

35 (a) The Commission shall have the secondary duty of collecting, developing, and
36 maintaining statistical data relating to ~~sentencing and corrections~~ sentencing, corrections,
37 and juvenile justice so that the primary duties of the Commission will be formulated
38 using data that is valid, accurate, and relevant to this State. All State agencies shall
39 provide data as it is requested by the Commission. All meetings of the Commission shall
40 be open to the public and the information presented to the Commission shall be available
41 to any State agency or member of the General Assembly.

42 (b) The Commission shall have the authority to apply for, accept, and use any
43 gifts, grants, or financial or other aid, in any form, from the federal government or any

1 agency or instrumentality thereof, or from the State or from any other source including
2 private associations, foundations, or corporations to accomplish any of the duties set out
3 in this Chapter."

4 **PART III. REGISTRATION OF CERTAIN JUVENILES.**

5 Section 9. Effective October 1, 1999, Article 25 of Chapter 7B of the General
6 Statutes is amended by adding a new section to read:

7 **"§ 7B-2505.1. Registration of certain delinquent juveniles.**

8 In any case in which a juvenile, who was at least eleven years of age at the time of the
9 offense, is adjudicated delinquent for committing a violation of G.S. 14-27.2 (first-degree
10 rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first-degree sexual offense), G.S.
11 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual
12 offense), the judge, upon a finding that the juvenile is a danger to the community, may
13 order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of
14 the General Statutes."

15 **PART IV. PREVENTION STATUTORY RECOMMENDATIONS EDUCATING** 16 **CHILDREN EXPELLED FROM SCHOOL**

17 Section 10. G.S. 115C-12(24) reads as rewritten:

18 "(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide
19 Technical Assistance on Implementation of Programs, and Evaluate
20 Programs. – The State Board of Education shall adopt guidelines for
21 assigning students to alternative learning programs. These guidelines
22 shall include (i) a description of the programs and services that are
23 recommended to be provided in alternative learning ~~programs and~~
24 programs, (ii) a process for ensuring that an assignment is appropriate
25 for the student and that the student's parents are involved in the
26 ~~decision.~~ decision, and (iii) strategies for providing alternative learning
27 programs, when feasible and appropriate, for students who are subject to
28 long-term suspension or expulsion.

29 The State Board of Education shall also adopt guidelines to require
30 that local school administrative units shall use (i) the teachers allocated
31 for students assigned to alternative learning programs pursuant to the
32 regular teacher allotment and (ii) the teachers allocated for students
33 assigned to alternative learning programs only to serve the needs of
34 these students.

35 The State Board of Education shall provide technical support to local
36 school administrative units to assist them in developing and
37 implementing plans for alternative learning programs.

38 The State Board shall evaluate the effectiveness of alternative
39 learning programs and, in its discretion, of any other programs funded
40 from the Alternative Schools/At-Risk Student allotment. Local school
41 administrative units shall report to the State Board of Education on how
42 funds in the Alternative Schools/At-Risk Student allotment are spent

1 and shall otherwise cooperate with the State Board of Education in
2 evaluating the alternative learning programs."

3 Section 11. G.S. 115C-105.47(b) reads as rewritten:

4 "(b) Each plan shall include each of the following components:

5 (1) Clear statements of the standard of behavior expected of students at
6 different grade levels and of school personnel and clear statements of
7 the consequences that will result from one or more violations of those
8 standards. There shall be a statement of consequences for students under
9 the age of 13 who physically assault and seriously injure a teacher or
10 other individual on school property or at a school-sponsored or school-
11 related activity. The consequences may include placement in an
12 alternative setting.

13 (2) A clear statement of the responsibility of the superintendent for
14 coordinating the adoption and the implementation of the plan,
15 evaluating principals' performance regarding school safety, monitoring
16 and evaluating the implementation of safety plans at the school level,
17 and coordinating with local law enforcement and court officials
18 appropriate aspects of implementation of the plan. The statement of
19 responsibility shall provide appropriate disciplinary consequences that
20 may occur if the superintendent fails to carry out these responsibilities.
21 These consequences may include a reprimand in the superintendent's
22 personnel file or withholding of the superintendent's salary, or both.

23 (3) A clear statement of the responsibility of the school principal for
24 restoring, if necessary, and maintaining a safe, secure, and orderly
25 school environment and of the consequences that may occur if the
26 principal fails to meet that responsibility. The principal's duties shall
27 include exhibiting appropriate leadership for school personnel and
28 students, providing for alternative placements for students who are
29 seriously disruptive, reporting all criminal acts under G.S. 115C-288(g),
30 and providing appropriate disciplinary consequences for disruptive
31 students. The consequences to the principal that may occur shall include
32 a reprimand in the principal's personnel file and disciplinary
33 proceedings under G.S. 115C-325.

34 (4) Clear statements of the roles of other administrators, teachers, and other
35 school personnel in restoring, if necessary, and maintaining a safe,
36 secure, and orderly school environment.

37 (5) Procedures for identifying and serving the needs of students who are at
38 risk of academic failure or of engaging in disruptive or disorderly
39 behavior.

40 (6) Mechanisms for assessing the needs of disruptive and disorderly
41 students, providing them with services to assist them in achieving
42 academically and in modifying their behavior, and removing them from
43 the classroom when necessary.

- 1 (6a) Strategies for providing alternative learning programs, when feasible
2 and appropriate, for students who are subject to long-term suspension or
3 expulsion.
- 4 (7) Measurable objectives for improving school safety and order.
- 5 (8) Measures of the effectiveness of efforts to assist students at risk of
6 academic failure or of engaging in disorderly or disruptive behavior.
- 7 (9) Professional development clearly matched to the goals and objectives of
8 the plan.
- 9 (10) A plan to work effectively with local law enforcement officials and
10 court officials to ensure that schools are safe and laws are enforced.
- 11 (11) A plan to provide access to information to the school community,
12 parents, and representatives of the local community on the ongoing
13 implementation of the local plan, monitoring of the local plan, and the
14 integration of educational and other services for students into the total
15 school program.
- 16 (12) The name and role description of the person responsible for
17 implementation of the plan.
- 18 (13) Direction to school improvement teams within the local school
19 administrative unit to consider the special conditions at their schools
20 and to incorporate into their school improvement plans the appropriate
21 components of the local plan for maintaining safe and orderly schools.
- 22 (14) A clear and detailed statement of the planned use of federal, State, and
23 local funds allocated for at-risk students, alternative schools, or both.
- 24 (15) Any other information the local board considers necessary or
25 appropriate to implement this Article.

26 A local board may develop its plan under this section by conducting a comprehensive
27 review of its existing policies, plans, statements, and procedures to determine whether
28 they: (i) are effective; (ii) have been updated to address recent changes in the law; (iii)
29 meet the current needs of each school in the local school administrative unit; and (iv)
30 address the components required to be included in the local plan. The board then may
31 consolidate and supplement any previously developed policies, plans, statements, and
32 procedures that the board determines are effective and updated, meet the current needs of
33 each school, and meet the requirements of this subsection.

34 Once developed, the board shall submit the local plan to the State Board of Education
35 and shall ensure the plan is available and accessible to parents and the school community.
36 The board shall provide annually to the State Board information that demonstrates how
37 the At-Risk Student Services/Alternative Schools Funding Allotment has been used to (i)
38 prevent academic failure or (ii) promote school safety."

39 **PART V. CONFORMING STATUTORY CHANGES**

40 Section 12. (a) G.S. 8-53.1 reads as rewritten:

41 **"§ 8-53.1. Physician-patient privilege waived in child abuse.**

42 Notwithstanding the provisions of G.S. 8-53, the physician-patient privilege shall not
43 be ground for excluding evidence regarding the abuse or neglect of a child under the age

1 of 16 years or regarding an illness of or injuries to such child or the cause thereof in any
2 judicial proceeding related to a report pursuant to the North Carolina Juvenile Code,
3 ~~Subchapter XI of Chapter 7A-7B~~ of the General Statutes of North Carolina."

4 (b) G.S. 8-53.3 reads as rewritten:

5 **"§ 8-53.3. Communications between psychologist and client or patient.**

6 No person, duly authorized as a licensed psychologist or licensed psychological
7 associate, nor any of his or her employees or associates, shall be required to disclose any
8 information which he or she may have acquired in the practice of psychology and which
9 information was necessary to enable him or her to practice psychology. Any resident or
10 presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6,
11 compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is
12 necessary to a proper administration of justice. If the case is in district court the judge
13 shall be a district court judge, and if the case is in superior court the judge shall be a
14 superior court judge.

15 Notwithstanding the provisions of this section, the psychologist-client or patient
16 privilege shall not be grounds for failure to report suspected child abuse or neglect to the
17 appropriate county department of social services, or for failure to report a disabled adult
18 suspected to be in need of protective services to the appropriate county department of
19 social services. Notwithstanding the provisions of this section, the psychologist-client or
20 patient privilege shall not be grounds for excluding evidence regarding the abuse or
21 neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for
22 excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an
23 illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding
24 related to a report pursuant to the Child Abuse Reporting Law, ~~Article 44 of Chapter 7A,~~
25 Article 3 of Chapter 7B of the General Statutes, or to the Protection of the Abused,
26 Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General
27 Statutes."

28 (c) G.S. 8-57.1 reads as rewritten:

29 **"§ 8-57.1. Husband-wife privilege waived in child abuse.**

30 Notwithstanding the provisions of G.S. 8-56 and G.S. 8-57, the husband-wife
31 privilege shall not be ground for excluding evidence regarding the abuse or neglect of a
32 child under the age of 16 years or regarding an illness of or injuries to such child or the
33 cause thereof in any judicial proceeding related to a report pursuant to the Child Abuse
34 Reporting Law, ~~Article 8 of Chapter 110~~ Article 3 of Chapter 7B of the General Statutes
35 of North Carolina."

36 (d) G.S. 14-208.6B reads as rewritten:

37 **"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted**
38 **in superior court.**

39 A juvenile transferred to superior court pursuant to ~~G.S. 7A-608~~ G.S. 7B-2200 who is
40 convicted of a sexually violent offense or an offense against a minor as defined in G.S.
41 14-208.6 shall register in accordance with this Article just as an adult convicted of the
42 same offense must register."

43 (e) G.S. 15A-502(c) reads as rewritten:

1 (c) This section does not authorize the taking of photographs or fingerprints of a
2 juvenile alleged to be delinquent except under ~~G.S. 7A-596 through 7A-601 and 7A-603.~~
3 Article 21 of Chapter 7B of the General Statutes."

4 (f) G.S. 35A-1371 reads as rewritten:

5 **"§ 35A-1371. Jurisdiction; limits.**

6 Notwithstanding the provisions of Subchapter II of this Chapter, the clerk of superior
7 court shall have original jurisdiction for the appointment of a standby guardian for a
8 minor child under this Article. Provided that the clerk shall have no jurisdiction, no
9 standby guardian may be appointed under this Article, and no designation may become
10 effective under this Article when a district court has assumed jurisdiction over the minor
11 child in an action under Chapter 50 of the General Statutes or in an abuse, neglect, or
12 dependency proceeding under ~~Subchapter XI of Chapter 7A~~ Subchapter I of Chapter 7B
13 of the General Statutes, or when a court in another state has assumed such jurisdiction
14 under a comparable statute."

15 (g) G.S. 48-2-102(b) reads as rewritten:

16 (b) If an adoptee is also the subject of a pending proceeding under ~~Subchapter XI~~
17 ~~of Chapter 7A~~ Chapter 7B of the General Statutes, then the district court having
18 jurisdiction under ~~Chapter 7A-7B~~ shall retain jurisdiction until the final order of adoption
19 is entered. The district court may waive jurisdiction for good cause."

20 (h) G.S. 48-3-201(d) reads as rewritten:

21 (d) An agency having legal and physical custody of a minor may place the minor
22 for adoption at any time after a relinquishment is executed by anyone as permitted by
23 G.S. 48-3-701. The agency may place the minor for adoption even if other consents are
24 required before an adoption can be granted, unless an individual whose consent is
25 required notifies the agency in writing of the individual's objections before the placement.
26 The agency shall act promptly after accepting a relinquishment to obtain all other
27 necessary consents, relinquishments, or terminations of any guardian's authority pursuant
28 to Chapter 35A of the General Statutes or parental rights pursuant to ~~Article 24B of~~
29 ~~Chapter 7A~~ Article 11 of Chapter 7B of the General Statutes."

30 (i) G.S. 48-2-304(c) reads as rewritten:

31 (c) A petition to adopt a minor under Article 3 of this Chapter shall also state:

32 (1) A description of the source of placement and the date of placement of
33 the adoptee with the petitioner; and

34 (2) That the provisions of the Interstate Compact on the Placement of
35 Children, ~~G.S. 110-57.1, et seq.,~~ Article 38 of Chapter 7B of the General
36 Statutes, were followed if the adoptee was brought into this State from
37 another state for purposes of adoption."

38 (j) G.S. 48-2-603 reads as rewritten:

39 **"§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

40 (a) At the hearing on, or disposition of, a petition to adopt a minor, the court shall
41 grant the petition upon finding by a preponderance of the evidence that the adoption will
42 serve the best interest of the adoptee, and that:

- 1 (1) At least 90 days have elapsed since the filing of the petition for
2 adoption, unless the court for cause waives this requirement;
 - 3 (2) The adoptee has been in the physical custody of the petitioner for at
4 least 90 days, unless the court for cause waives this requirement;
 - 5 (3) Notice of the filing of the petition has been served on any person
6 entitled to receive notice under Part 4 of this Article;
 - 7 (4) Each necessary consent, relinquishment, waiver, or judicial order
8 terminating parental rights, has been obtained and filed with the court
9 and the time for revocation has expired;
 - 10 (5) Any assessment required by this Chapter has been filed with and
11 considered by the court;
 - 12 (6) If applicable, the requirements of the Interstate Compact on the
13 Placement of Children, G.S. 110-57.1, et seq., Article 38 of Chapter 7B
14 of the General Statutes, have been met;
 - 15 (7) Any motion to dismiss the proceeding has been denied;
 - 16 (8) Each petitioner is a suitable adoptive parent;
 - 17 (9) Any accounting and affidavit required under G.S. 48-2-602 has been
18 reviewed by the court, and the court has denied, modified, or ordered
19 reimbursement of any payment or disbursement that violates Article 10
20 or is unreasonable when compared with the expenses customarily
21 incurred in connection with an adoption;
 - 22 (10) The petitioner has received information about the adoptee and the
23 adoptee's biological family if required by G.S. 48-3-205; and
 - 24 (11) There has been substantial compliance with the provisions of this
25 Chapter.
- 26 (b) If the Court finds a violation of this Chapter pursuant to Article 10 or of the
27 Interstate Compact on the Placement of Children, G.S. 110-57.1, et seq., Article 38 of
28 Chapter 7B of the General Statutes, but determines that in every other respect there has
29 been substantial compliance with the provisions of this Chapter, and the adoption will
30 serve the best interest of the adoptee, the court shall:
- 31 (1) Grant the petition to adopt; and
 - 32 (2) Impose the sanctions provided by this Chapter against any individual or
33 entity who has committed a prohibited act or report the violations to the
34 appropriate legal authorities.
- 35 (c) The court on its own motion may continue the hearing for further evidence."
- 36 (j1) G.S. 48-2-305(7) reads as rewritten:
37 "(7) Any signed copy of the form required by the Interstate Compact on the
38 Placement of Children, G.S. 110-57.1, et seq., Article 38 of Chapter 7B
39 of the General Statutes, authorizing a minor to come into this State;"
 - 40 (k) G.S. 48-3-207 reads as rewritten:
41 "**§ 48-3-207. Interstate placements.**

1 An interstate placement of a minor for purposes of adoption shall comply with the
2 Interstate Compact on the Placement of Children, ~~G.S. 110-57.1 et seq.~~ Article 38 of
3 Chapter 7B of the General Statutes."

4 (l) G.S. 48-3-603(a)(1) reads as rewritten:

5 "(1) An individual whose parental rights and duties have been terminated
6 under ~~Article 24B of Chapter 7A~~ Article 11 of Chapter 7B of the
7 General Statutes or by a court of competent jurisdiction in another
8 state;"

9 (m) G.S. 50-13.1(f) reads as rewritten:

10 "(f) Neither the mediator nor any party or other person involved in mediation
11 sessions under this section shall be competent to testify to communications made during
12 or in furtherance of such mediation sessions; provided, there is no privilege as to
13 communications made in furtherance of a crime or fraud. Nothing in this subsection shall
14 be construed as permitting an individual to obtain immunity from prosecution for
15 criminal conduct or as excusing an individual from the reporting requirements of ~~G.S.~~
16 ~~7A-543~~ Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102."

17 (n) G.S. 50A-25 reads as rewritten:

18 **"§ 50A-25. Emergency orders.**

19 Nothing in this Chapter shall be interpreted to limit the authority of the court to issue
20 an interlocutory order under the provisions of G.S. 50-13.5(d)(2); or a secure or
21 nonsecure custody order under the provisions of ~~G.S. 7A-573.~~ G.S. 7B-502."

22 (o) G.S. 50B-6 reads as rewritten:

23 **"§ 50B-6. Construction of Chapter.**

24 This Chapter shall not be construed as granting a status to any person for any purpose
25 other than those expressly stated herein. This Chapter shall not be construed as relieving
26 any person or institution of the duty to report to the department of social services, as
27 required by ~~G.S. 7A-543,~~ G.S. 7B-301, if the person or institution has cause to suspect
28 that a juvenile is abused or neglected."

29 (p) G.S. 51-2(a) reads as rewritten:

30 "(a) All unmarried persons of 18 years, or older, may lawfully marry, except as
31 hereinafter forbidden. In addition, persons over 16 years of age and under 18 years of age
32 may marry, and the register of deeds may issue a license for such marriage, only after
33 there shall have been filed with the register of deeds a written consent to such marriage,
34 said consent having been signed by the appropriate person as follows:

35 (1) By the father if the male or female child applying to marry resides with
36 his or her father, but not with his or her mother;

37 (2) By the mother if the male or female child applying to marry resides with
38 his or her mother, but not with his or her father;

39 (3) By either the mother or father, without preference, if the male or female
40 child applying to marry resides with his or her mother and father;

41 (4) By a person, agency, or institution having legal custody, standing in
42 loco parentis, or serving as guardian of such male or female child
43 applying to marry.

1 Such written consent shall not be required for an emancipated minor if a certificate of
2 emancipation issued pursuant to Article ~~56 of Chapter 7A-35~~ of Chapter 7B of the
3 General Statutes or a certified copy of a final decree or certificate of emancipation from
4 this or any other jurisdiction is filed with the register of deeds."

5 (q) G.S. 90-21.6(1) reads as rewritten:

6 "(1) 'Unemancipated minor' or 'minor' means any person under the age of 18
7 who has not been married or has not been emancipated pursuant to
8 Article ~~56 of Chapter 7A-35~~ of Chapter 7B of the General Statutes."

9 (r) G.S. 90-21.8(f) reads as rewritten:

10 "(f) The court shall make written findings of fact and conclusions of law supporting
11 its decision and shall order that a confidential record of the evidence be maintained. If the
12 court finds that the minor has been a victim of incest, whether felonious or misdemeanor,
13 it shall advise the Director of the Department of Social Services of its findings for further
14 action pursuant to Article ~~44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes."

15 (s) G.S. 108A-14(a)(11) reads as rewritten:

16 "(11) To investigate reports of child abuse and neglect and to take appropriate
17 action to protect such children pursuant to the Child Abuse Reporting
18 Law, Article ~~44 of Chapter 7A;~~ Article 3 of Chapter 7B of the General
19 Statutes;"

20 (t) G.S. 110-102 reads as rewritten:

21 **"§ 110-102. Information for parents.**

22 The Secretary shall provide to each operator of a child care facility a summary of this
23 Article for the parents, guardian, or full-time custodian of each child receiving child care
24 in the facility to be distributed by the operator. The summary shall include the name and
25 address of the Secretary and the address of the Commission. The summary shall also
26 include a statement regarding the mandatory duty prescribed in ~~G.S. 7A-543~~ G.S. 7B-301
27 of any person suspecting child abuse or neglect has taken place in child care, or
28 elsewhere, to report to the county Department of Social Services. The statement shall
29 include the definitions of child abuse and neglect described in the Juvenile Code in ~~G.S.~~
30 ~~7A-517~~ 7B-101 and of child abuse described in the Criminal Code in G.S. 14-318.2 and
31 G.S. 14-318.4. The statement shall stress that this reporting law does not require that the
32 person reporting reveal the person's identity."

33 (u) G.S. 110-105.2(a) reads as rewritten:

34 "(a) For purposes of this Article, child abuse and neglect, as defined in ~~G.S. 7A-517~~
35 G.S. 7B-101 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities,
36 are violations of the licensure standards and of the licensure law."

37 (v) G.S. 110-147 reads as rewritten:

38 **"§ 110-147. Purpose.**

39 It is the expressed intent of this Article to make the prevention of child abuse and
40 neglect as defined in ~~G.S. 7A-517;~~ G.S. 7B-101, a priority of this State and to establish
41 the Children's Trust Fund as a means to that end."

42 (w) G.S. 114-15.3 reads as rewritten:

43 **"§ 114-15.3. Investigations of child sexual abuse in child care.**

1 The Director of the Bureau may form a task force to investigate and gather evidence
2 following a notification by the director of a county department of social services,
3 pursuant to ~~G.S. 7A-543~~, G.S. 7B-301, that child sexual abuse may have occurred in a
4 child care facility."

5 (x) G.S. 115C-378 reads as rewritten:

6 **"§ 115C-378. Children required to attend.**

7 Every parent, guardian or other person in this State having charge or control of a child
8 between the ages of seven and 16 years shall cause such child to attend school
9 continuously for a period equal to the time which the public school to which the child is
10 assigned shall be in session. Every parent, guardian, or other person in this State having
11 charge or control of a child under age seven who is enrolled in a public school in grades
12 kindergarten through two shall also cause such child to attend school continuously for a
13 period equal to the time which the public school to which the child is assigned shall be in
14 session unless the child has withdrawn from school. No person shall encourage, entice or
15 counsel any such child to be unlawfully absent from school. The parent, guardian, or
16 custodian of a child shall notify the school of the reason for each known absence of the
17 child, in accordance with local school policy.

18 The principal, superintendent, or teacher who is in charge of such school shall have
19 the right to excuse a child temporarily from attendance on account of sickness or other
20 unavoidable cause which does not constitute unlawful absence as defined by the State
21 Board of Education. The term 'school' as used herein is defined to embrace all public
22 schools and such nonpublic schools as have teachers and curricula that are approved by
23 the State Board of Education.

24 All nonpublic schools receiving and instructing children of a compulsory school age
25 shall be required to keep such records of attendance and render such reports of the
26 attendance of such children and maintain such minimum curriculum standards as are
27 required of public schools; and attendance upon such schools, if the school refuses or
28 neglects to keep such records or to render such reports, shall not be accepted in lieu of
29 attendance upon the public school of the district to which the child shall be assigned:
30 Provided, that instruction in a nonpublic school shall not be regarded as meeting the
31 requirements of the law unless the courses of instruction run concurrently with the term
32 of the public school in the district and extend for at least as long a term.

33 The principal or his designee shall notify the parent, guardian, or custodian of his
34 child's excessive absences after the child has accumulated three unexcused absences in a
35 school year. After not more than six unexcused absences, the principal shall notify the
36 parent, guardian, or custodian by mail that he may be in violation of the Compulsory
37 Attendance Law and may be prosecuted if the absences cannot be justified under the
38 established attendance policies of the State and local boards of education. Once the
39 parents are notified, the school attendance counselor shall work with the child and his
40 family to analyze the causes of the absences and determine steps, including adjustment of
41 the school program or obtaining supplemental services, to eliminate the problem. The
42 attendance counselor may request that a law-enforcement officer accompany him if he
43 believes that a home visit is necessary.

1 After 10 accumulated unexcused absences in a school year the principal shall review
2 any report or investigation prepared under G.S. 115C-381 and shall confer with the
3 student and his parent, guardian, or custodian if possible to determine whether the parent,
4 guardian, or custodian has received notification pursuant to this section and made a good
5 faith effort to comply with the law. If the principal determines that parent, guardian, or
6 custodian has not, he shall notify the district attorney. If he determines that parent,
7 guardian, or custodian has, he may file a complaint with the juvenile intake counselor
8 ~~under G.S. 7A-561~~ pursuant to Chapter 7B of the General Statutes that the child is
9 habitually absent from school without a valid excuse. Evidence that shows that the
10 parents, guardian, or custodian were notified and that the child has accumulated 10
11 absences which cannot be justified under the established attendance policies of the local
12 board shall establish a prima facie case that the child's parent, guardian, or custodian is
13 responsible for the absences."

14 (y) G.S. 115C-400 reads as rewritten:

15 "**§ 115C-400. School personnel to report child abuse.**

16 Any person who has cause to suspect child abuse or neglect has a duty to report the
17 case of the child to the Director of Social Services of the county, as provided in ~~G.S. 7A-~~
18 ~~543 to 7A-552.~~ Article 3 of Chapter 7B of the General Statutes."

19 (z) G.S. 115C-404(a) reads as rewritten:

20 "(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ Article 31 of
21 Chapter 7B of the General Statutes are confidential records, are not public records as
22 defined under G.S.132-1, and shall not be made part of the student's official record under
23 G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents
24 in a safe, locked record storage that is separate from the student's other school records.
25 The principal shall maintain these documents until the principal receives notification that
26 the judge dismissed the ~~petition under G.S. 7A-637,~~ petition, the judge transferred
27 jurisdiction over the student to superior ~~court under G.S. 7A-608,~~ court, or the judge
28 granted the student's petition for expunction of the ~~records.~~ records pursuant to Chapter
29 7B of the General Statutes. At that time, the principal shall shred, burn, or otherwise
30 destroy the documents to protect the confidentiality of this information. In no case shall
31 the principal make a copy of these documents."

32 (aa) G.S. 122C-54(h) reads as rewritten:

33 "(h) A facility shall disclose confidential information for purposes of complying
34 with Article 44 ~~of Chapter 7A-3~~ of Chapter 7B of the General Statutes and Article 6 of
35 Chapter 108A of the General Statutes, or as required by other State or federal law."

36 (bb) G.S. 122C-66(e) reads as rewritten:

37 "(e) The duty imposed by this section is in addition to any duty imposed by G.S.
38 ~~7A-543-7B-301~~ or G.S. 108A-102."

39 (cc) G.S. 122C-223(c) reads as rewritten:

40 "(c) If the legally responsible person cannot be located within 72 hours of
41 admission, the responsible professional shall initiate proceedings for juvenile protective
42 services as described in Article 44 ~~of Chapter 7A-3~~ of Chapter 7B of the General Statutes
43 in either the minor's county of residence or in the county in which the facility is located."

1 (dd) G.S. 122C-421(a) reads as rewritten:
2 "(a) The Secretary may designate one or more special police officers who shall
3 make up a joint security force to enforce the law of North Carolina and any ordinance or
4 regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the
5 authority granted the Department by any other law on the territory of the Black Mountain
6 Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in
7 Buncombe County. After taking the oath of office for law enforcement officers as set out
8 in G.S. 11-11, these special police officers have the same powers as peace officers now
9 vested in sheriffs within the territory embraced by the named centers. These special
10 police officers shall also have the power prescribed by ~~G.S. 7A-571(a)(4)~~ G.S. 7B-1900
11 outside the territory embraced by the named centers but within the confines of Buncombe
12 County. These special police officers may arrest persons outside the territory of the
13 named centers but within the confines of Buncombe County when the person arrested has
14 committed a criminal offense within that territory, for which the officers could have
15 arrested the person within that territory, and the arrest is made during the person's
16 immediate and continuous flight from that territory."

17 (ee) G.S. 131D-10.2(3) reads as rewritten:
18 "(3) 'Child' means an individual less than 18 years of age, who has not been
19 emancipated under the provisions of ~~Article 56 of Chapter 7A~~ Article 35
20 of Chapter 7B of the General Statutes."

21 (ff) G.S. 131D-10.4(3) reads as rewritten:
22 "(3) Secure detention facilities as specified in ~~Article 5 of Chapter 134A-40~~
23 of Chapter 7B of the General Statutes;"

24 (gg) G.S. 132-1.4(l) reads as rewritten:
25 "(l) Records of investigations of alleged child abuse shall be governed by ~~G.S. 7A-~~
26 ~~675-~~ Article 29 of Chapter 7B of the General Statutes."

27 (hh) G.S. 143-576(1) reads as rewritten:
28 "(1) Review current deaths of children when those deaths are attributed to
29 child abuse or neglect or when the decedent was reported as an abused
30 or neglected juvenile pursuant to ~~G.S. 7A-543~~ G.S. 7B-301 at any time
31 before death;"

32 (ii) G.S. 143B-168.14(a)(3) reads as rewritten:
33 "(3) Each local partnership shall adopt procedures to ensure that all
34 personnel who provide services to young children and their families
35 under this Part know and understand their responsibility to report
36 suspected child abuse, neglect, or dependency, as defined in ~~G.S. 7A-~~
37 ~~517-~~ G.S. 7B-101."

38 (jj) G.S. 143B-496 reads as rewritten:
39 "**§ 143B-496. Definitions.**

40 For the purpose of this Part:

41 (1) 'Missing child' means a juvenile as defined in ~~G.S. 7A-517(20)~~ 7B-101
42 whose location has not been determined, who has been reported as
43 missing to a law-enforcement agency, and whose parent's, spouse's,

1 guardian's or legal custodian's temporary or permanent residence is in
2 North Carolina or is believed to be in North Carolina.

3 (2) 'Missing person' means any individual who is 18 years of age or older,
4 whose temporary or permanent residence is in North Carolina, or is
5 believed to be in North Carolina, whose location has not been
6 determined, and who has been reported as missing to a law-enforcement
7 agency.

8 (3) 'Missing person report' is a report prepared on a prescribed form for
9 transmitting information about a missing person or a missing child to an
10 appropriate law-enforcement agency."

11 (kk) G.S. 153A-221.1 reads as rewritten:

12 **"§ 153A-221.1. Standards and inspections.**

13 The legal responsibility of the Secretary of Health and Human Services and the Social
14 Services Commission for State services to county juvenile detention homes under this
15 Article is hereby confirmed and shall include the following: development of State
16 standards under the prescribed procedures; inspection; consultation; technical assistance;
17 and training. Further, the legal responsibility of the Department of Health and Human
18 Services is hereby expanded to give said Department the same legal responsibility as to
19 the State-administered regional detention homes which shall be developed by the State
20 Department of Correction as provided by ~~G.S. 134A-37.~~ G.S. 7B-4008.

21 The Secretary of Health and Human Services shall develop new standards which shall
22 be applicable to county detention homes and regional detention homes as defined by ~~G.S.~~
23 ~~134-36—~~Article 40 of Chapter 7B of the General Statutes in line with the
24 recommendations of the report entitled Juvenile Detention in North Carolina: A Study
25 Report (January, 1973) where practicable, and such new standards shall become effective
26 not later than July 1, 1977.

27 The Secretary of Health and Human Services shall also develop standards under
28 which a local jail may be approved as a holdover facility for not more than five calendar
29 days pending placement in a juvenile detention home which meets State standards,
30 providing the local jail is so arranged that any child placed in the holdover facility cannot
31 converse with, see, or be seen by the adult population of the jail while in the holdover
32 facility. The personnel responsible for the administration of a jail with an approved
33 holdover facility shall provide close supervision of any child placed in the holdover
34 facility for the protection of the child."

35 Section 13. Effective October 1, 1999, G.S. 14-208.31 reads as rewritten:

36 **"§ 14-208.31. File with Police Information Network.**

37 (a) The Division shall include the registration information in the Police
38 Information Network as set forth in G.S. 114-10.1.

39 (b) The Division shall maintain the registration information permanently even
40 after the registrant's reporting requirement expires; however, the records shall remain
41 confidential in accordance with ~~G.S. 7A-675.~~ Article 32 of Chapter 7B of the General
42 Statutes."

43 **PART VI. UNCODIFIED RECOMMENDATIONS.**

1 Section 14. The Department of Justice shall revise the Division of Criminal
2 Information's juvenile arrest form that is used by State and local law enforcement
3 agencies to provide more realistic reporting options and case disposition information.
4 The Department of Justice shall rename the "Juvenile Arrest" form the "Juvenile Contact
5 Report", with instructions to law enforcement "Use to Record the Handling of Juveniles
6 Who Commit Criminal Offenses" and shall amend the report based on the form included
7 with Recommendation 51 of the March 10, 1998, final report of the Governor's
8 Commission on Juvenile Crime and Justice.

9 Section 15. (a) The Department of Justice shall develop and administer
10 minority sensitivity training for all law enforcement personnel throughout the State. The
11 Department shall ensure that all persons who work with minority juveniles in the juvenile
12 justice system are taught how to communicate effectively with minority juveniles and
13 how to recognize and address the needs of those juveniles. The Department shall also
14 advise all law enforcement and professionals who work within the juvenile justice system
15 of ways to improve the treatment of minority juveniles so that all juveniles receive equal
16 treatment. The Department shall conduct the minority sensitivity training annually and,
17 prior to the training each year, shall assess whether minorities are receiving fair and equal
18 treatment in the juvenile justice system with regard to the administration of predisposition
19 procedures, of diversion methods, of dispositional alternatives, and of treatment and post-
20 release supervision plans.

21 (b) The Department of Juvenile Justice shall ensure that all juvenile court
22 counselors and other Department personnel receive the minority sensitivity training
23 specified in subsection (a) of this section. The Chief Justice of the North Carolina
24 Supreme Court shall consider ensuring that all judges who hear cases under the
25 jurisdiction of the juvenile court receive minority sensitivity training.

26 Section 16. The Legislative Research Commission may study the
27 recommendations of the Court Improvement Project regarding the statutory procedures
28 and mandates of Subchapter I. of Chapter 7B of the General Statutes, the Juvenile Code.
29 The study may include a review of the effectiveness of the juvenile justice system with
30 regard to the disposition of abuse, neglect, and dependency cases and may consider
31 whether the recommendations of the Court Improvement Project will improve the
32 procedures and disposition of those cases. The Legislative Research Commission may
33 report its findings, recommendations, and any legislative proposals to the 1999 General
34 Assembly on or before December 1, 1999.

35 Section 17. (a) The State Board of Education shall study the feasibility and
36 advisability of delaying the start of the school day in order to provide students with
37 constructive projects and tasks during late afternoon hours of the school week. If the
38 Board recommends that the school day be delayed, the Board shall consider whether the
39 local school administrative units should provide supervision of students whose working
40 parents do not have early morning child care available.

41 (b) The State Board of Education shall report its findings,
42 recommendations, and any legislative proposals to the Joint Legislative Education
43 Oversight Committee on or before April 1, 1999.

1 Section 18. (a) The Criminal Justice Information Network Governing Board
2 created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second
3 Extra Session shall develop a comprehensive juvenile justice information system. The
4 Board shall develop a system to collect data and information about every juvenile who is
5 alleged to be delinquent from the time a complaint is filed against the juvenile, including:

- 6 (1) Fingerprints and photographs taken of the juvenile;
- 7 (2) Diversion agreements or plans entered into by the juvenile;
- 8 (3) Community services provided to the juvenile and any participation of
9 the juvenile in community-based programs;
- 10 (4) Court orders or dispositions of the juvenile; and
- 11 (5) Plans for care or treatment or for post-release supervision prepared by
12 the Department of Juvenile Justice.

13 The system shall allow for information and data on juveniles to be kept in a form to be
14 shared among appropriate agencies to develop treatment and intervention plans based on
15 specific data and to allow reliable assessment and evaluation of the effectiveness of
16 rehabilitative and preventive services provided to delinquent juveniles.

17 (b) The Criminal Justice Information Network Governing Board shall also
18 study the most appropriate methods and procedures for obtaining, retaining, and releasing
19 fingerprints and photographs of juveniles alleged to be delinquent, including:

- 20 (1) How to identify fingerprints and photographs of juveniles, including the
21 use of social security numbers;
- 22 (2) How long fingerprints and photographs of juveniles should be
23 maintained in the criminal justice information system;
- 24 (3) The extent to which juvenile fingerprints and photographs are kept
25 confidential;
- 26 (4) The circumstances or conditions under which juvenile fingerprints and
27 photographs should be disseminated;
- 28 (5) Whether juvenile fingerprints and photographs should be kept separate
29 from adult records and files; and
- 30 (6) When the juvenile fingerprints and photographs should be destroyed.

31 (c) The Criminal Justice Information Network Governing Board shall consider the
32 issue of expunction of juvenile records, including the appropriate length of time juvenile
33 records should be available to law enforcement, prosecutors, and service providers and
34 under what limitations and conditions records should be expunged.

35 (d) The Criminal Justice Information Network Governing Board shall report to the
36 Chairs of the Senate and House Appropriations Subcommittees on Justice and Public
37 Safety and to the Fiscal Research Division of the General Assembly on the proposed
38 system and any findings, recommendations, and legislative proposals from its study on or
39 before April 1, 1999.

40 Section 19. (a) The Department of Juvenile Justice shall develop a cost-
41 effective plan to establish statewide community-based dispositional alternatives for
42 juveniles who are adjudicated delinquent. The plan shall include a funding strategy to
43 encourage communities to provide local resources, services, and treatment options to

1 meet the physical, emotional, and mental needs of juveniles and their families. In
2 developing the plan, the Department shall consider the following community-based
3 alternatives:

- 4 (1) Home-based family counseling with family support groups that can
5 provide required intervention services;
- 6 (2) After-school activity programs for middle school juveniles targeted at
7 potential at-risk juveniles during the time when most juvenile crimes
8 occur;
- 9 (3) Inpatient and outpatient substance abuse and sex offender treatment
10 programs;
- 11 (4) Intensive supervision of high-risk juveniles;
- 12 (5) Group homes with psychological treatment and programs for juveniles
13 who do not pose a threat to the public but who need long term
14 intervention services.

15 In addition, in developing the plan, the Department shall recommend which judicial
16 districts with high crime rates should have non-residential day reporting centers to
17 provide intensive supervision.

18 (b) The Department shall report to the Chairs of the Senate and House
19 Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research
20 Division of the General Assembly on the proposed plan, the cost of the plan, and on any
21 legislative proposals required to implement the plan on or before April 1, 1999.

22 Section 20. (a) The Administrative Office of the Courts shall establish pilot
23 programs for the holding of family court within district court districts to be chosen by the
24 Administrative Office of the Courts. Each pilot program shall be conducted following
25 the guidelines for the establishment of family courts contained in the report of the
26 Commission for the Future of Justice and the Courts in North Carolina and shall be
27 assigned to hear all matters involving intrafamily rights, relationships, and obligations,
28 and all juvenile justice matters, including:

- 29 (1) Child abuse, neglect, and dependency;
- 30 (2) Delinquent and undisciplined juvenile matters;
- 31 (3) Emancipation of minors and termination of parental rights;
- 32 (4) Divorce;
- 33 (5) Annulment;
- 34 (6) Equitable distribution;
- 35 (7) Alimony and postseparation support;
- 36 (8) Child custody;
- 37 (9) Child support;
- 38 (10) Paternity;
- 39 (11) Adoption;
- 40 (12) Domestic violence civil restraining orders;
- 41 (13) Abortion consent waivers;
- 42 (14) Adult protective services; and

1 (15) Guardianship, involuntary commitment, and voluntary admissions to
2 mental health facilities.

3 (b) The Administrative Office of the Courts shall report to the Chairs of the
4 Senate and House Appropriations Subcommittees on Justice and Public Safety and to the
5 Fiscal Research Division of the General Assembly by March 1, 1999, on the success of
6 the pilot programs in bringing consistency, efficiency, and fairness to the resolution of
7 family matters and on the impact of the programs on caseloads in the district court
8 division.

9 Section 21. (a) The General Assembly finds that there are multiple risk factors
10 that put youth at risk of becoming delinquent, such as aggression, school failure, child
11 abuse and neglect, substance abuse, extreme economic deprivation, friends who engage
12 in problem behavior, inconsistent, ineffective discipline, poor parental supervision, and
13 family conflict. There are currently a number of screening programs available through a
14 number of State and local entities that, if better coordinated, can provide adequate
15 identification of delinquency risk factors so that delinquency prevention programs and
16 services can be effective.

17 The General Assembly further finds that there are currently a number of State
18 and local entities that provide delinquency prevention programs to at-risk youth and their
19 families, including early intervention programs and programs improving cognitive and
20 social competence and self-control skills, improving parenting skills, and providing a
21 positive role model. Many of these programs are already available and need only to be
22 made more accessible and to be better coordinated with other existing programs and
23 services.

24 (b) The Department of Juvenile Justice shall ensure that existing programs
25 made available through a number of entities, both at the State and at the local level, that
26 provide screenings that can provide adequate identification of delinquency risk factors,
27 continue to be used in a consistent, coordinated, and cost-effective way so as to enable
28 delinquency prevention programs and services to be utilized in a consistent, coordinated,
29 and cost-effective way.

30 (c) In implementing this section, the Department shall cooperate with all
31 affected State and local public and private entities, including local education agencies,
32 local health departments, developmental evaluation centers, local departments of social
33 services, the Divisions of Women and Children's Health, of Social Services, and Mental
34 Health, Developmental Disabilities, and Substance Abuse Services of the Department of
35 Health and Human Services, law enforcement agencies, and nonprofit agencies.

36 (d) The Department shall report to the General Assembly by April 1, 1999,
37 on its implementation of this section. This report shall include an evaluation of the
38 screenings and prevention programs, an identification of any bars in the law or in any
39 agency's policy that preclude effective cooperation, together with any legislative and rule
40 recommendations that are needed, recommendations as to any new screening or
41 prevention programs and services that are needed, and a detailed cost analysis of these
42 recommendations.

1 Section 22. (a) The Department of Juvenile Justice, in cooperation with the
2 Department of Public Instruction, shall study more effective and efficient ways to:

- 3 (1) Coordinate case management of delinquency and undisciplined cases;
- 4 (2) Provide services to juveniles who are in need of treatment, counseling,
5 or rehabilitation and to the families of those juveniles, including court-
6 ordered parenting responsibility classes; and
- 7 (3) Provide the maximum protection to the public and to local school
8 administrative units, in particular, through the sharing of information
9 between agencies that work with juveniles who are delinquent or
10 undisciplined and increased accountability of those juveniles and their
11 parents.

12 The study shall include a review of all the agencies, councils, and programs that provide
13 services to juveniles, including the Center for the Prevention of School Violence, School
14 Resource Officers, the Guardian ad Litem Program of the Administrative Office of the
15 Courts, the Department of Social Services, the Department of Administration, the
16 Division of Child and Family Services, the Division of Mental Health, Developmental
17 Disabilities, and Substance Abuse Services, and the Willie M. Program, and whether the
18 agencies, councils, or programs should be eliminated, consolidated, or incorporated
19 within the Department of Juvenile Justice. In determining whether to incorporate any of
20 the above-listed programs or agencies in the new department, the Department of Juvenile
21 Justice and the Department of Public Instruction shall consider the funding mechanisms
22 of those programs and agencies in an effort to operate the Department of Juvenile Justice
23 in a cost-effective and efficient manner.

24 (b) The Department of Juvenile Justice in cooperation with the Department
25 of Public Instruction, shall develop proposed rules, forms, and policies required to
26 establish the Department of Juvenile Justice and to implement the objectives and
27 mandates of Article 12 of Chapter 143B of the General Statutes, as enacted by this act.

28 (c) On or before April 1, 1999, the Department of Juvenile Justice and the
29 Department of Public Instruction shall report its findings and recommendations,
30 including any legislative proposals and funding requirements that are required to
31 implement Article 12 of Chapter 143B of the General Statutes, as enacted by this act, to
32 the 1999 General Assembly by April 1, 1999.

33 **PART VII. DEPARTMENT OF JUVENILE JUSTICE STUDY AND REPORT.**

34 Section 23. The Department of Juvenile Justice shall use funds within its
35 budget to evaluate the effectiveness of the reform measures implemented pursuant to the
36 provisions of this act. The Department shall report the results of the evaluation and any
37 recommended legislative amendments to Chapter 7B of the General Statutes to the Joint
38 Legislative Commission on Governmental Operations by April 1, 2001.

39 **PART VIII. DEPARTMENT TRANSITIONAL PERIOD.**

40 Section 24. Beginning October 1, 1998, the Department of Juvenile Justice
41 shall perform all functions and duties of the Division of Youth Services of the
42 Department of Health and Human Services and of the Division of Juvenile Services of
43 the Administrative Office of the Courts and shall have all powers and authority vested in

1 those Divisions pursuant to the General Statutes, notwithstanding that Section 4 of this
2 act amends the applicable sections of the General Statutes to revise statutory references to
3 "Division of Youth Services", "Division of Juvenile Services", "Juvenile Services
4 Division", "Administrative Office of the Courts", "Director of Youth Services", and
5 "Administrator of Juvenile Services", effective July 1, 1999.

6 **PART IX. FACILITIES CONSTRUCTION.**

7 Section 25. The Office of State Construction of the Department of
8 Administration may contract for and supervise all aspects of administration, technical
9 assistance, design, construction, or demolition of any juvenile facilities authorized for the
10 1998-99 fiscal year, including renovation of existing adult facilities to juvenile facilities.

11 The facilities authorized for the 1998-99 fiscal year shall be constructed in
12 accordance with the provisions of general law applicable to the construction of State
13 facilities. If the Secretary of Administration, after consultation with the Secretary of the
14 Department of Juvenile Justice, finds that the delivery of juvenile facilities must be
15 expedited for good cause, the Office of State Construction of the Department of
16 Administration shall be exempt from the following statutes and rules implementing those
17 statutes, to the extent necessary to expedite delivery: G.S. 143-135.26, 143-128, 143-
18 129, 143-131, 143-132, 143-134, 113A-1 through 113A-10, 113A-50 through 113A-66,
19 133-1.1(g), and 143-408.1 through 143-408.7.

20 Prior to exercising the exemptions allowable under this section, the Secretary
21 of Administration shall give reasonable notice in writing of the Department's intent to
22 exercise the exemptions to the Speaker of the House, the President Pro Tempore of the
23 Senate, the Chairs of the House and Senate Appropriations Committees, the Joint
24 Legislative Commission on Governmental Operations, and the Fiscal Research Division.
25 The written notice shall contain at least the following information: (i) the specific
26 statutory requirement or requirements from which the Department intends to exempt
27 itself; (ii) the reason the exemption is necessary to expedite delivery of juvenile facilities;
28 (iii) the way in which the Department anticipates the exemption will expedite the delivery
29 of facilities; and (iv) a brief summary of the proposed contract for the project which is to
30 be exempted.

31 The Office of State Construction of the Department of Administration shall
32 have a verifiable ten percent (10%) goal for participation by minority and women-owned
33 businesses. All contracts for the design, construction, or demolition of juvenile facilities
34 shall include a penalty for failure to complete the work by a specified date.

35 The Office of State Construction of the Department of Administration shall
36 consult the Department of Juvenile Justice on these projects to the extent that such
37 involvement relates to the Department's program needs and to its responsibility for the
38 care of the population of the facility.

39 (b) The Office of State Construction of the Department of Administration
40 shall provide a report by May 1, 1999, to the Chairs of the Senate and House
41 Appropriations Committees, the Joint Legislative Commission on Governmental
42 Operations, and the Fiscal Research Division as to any changes in projects and
43 allocations authorized for the 1998-99 fiscal year. The report shall include information on

1 which contractors have been selected, what contracts have been entered into, the
2 projected and actual occupancy dates of facilities contracted for, the number of beds to be
3 constructed on each project, the location of each project, and the projected and actual cost
4 of each project.

5 **PART X. APPROPRIATIONS.**

6 Section 26. There is established in the Office of State Budget and Management
7 a reserve fund entitled the "Juvenile Justice Reserve Fund" to provide funds to implement
8 the provisions of this act. There is appropriated from the General Fund to the Office of
9 State Budget and Management the sum of forty-two million four hundred thousand
10 dollars (\$42,400,000) for the 1998-99 fiscal year for the Juvenile Justice Reserve Fund.
11 The Office of State Budget and Management shall report to the Joint Legislative
12 Commission on Governmental Operations on the intended use of the funds prior to
13 expenditure of any funds from the Juvenile Justice Reserve Fund.

14 **PART XI. SEVERABILITY CLAUSE.**

15 Section 27. If any section or provision of this act is declared unconstitutional
16 or invalid by the courts, it does not affect the validity of this act as a whole or any part
17 other than the part so declared to be unconstitutional or invalid.

18 **PART XII. EFFECTIVE DATES.**

19 Section 28. (a) Sections 1, 2, 19, 21, and 22 of this act become effective
20 October 1, 1998.

21 (b) Sections 3 through 8, Sections 10 through 12, and Sections 14, 15, and
22 18 of this act become effective July 1, 1999.

23 (c) Sections 9 and 13 of this act become effective October 1, 1999.

24 (d) The remainder of this act becomes effective July 1, 1998.

25 (e) G.S. 7B-1402 and G.S. 7B-1403, as enacted by Section 4 of this act, are
26 repealed February 1, 1999.