

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1720\*  
Committee Substitute Favorable 8/17/98  
Committee Substitute #2 Favorable 9/14/98  
Senate Judiciary Committee Substitute Adopted 10/13/98

Short Title: Adoption & Safe Families Act.

(Public)

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Sponsors:

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Referred to: Finance.

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June 1, 1998

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CUSTODY OF  
3 ABUSED AND NEGLECTED JUVENILES AND JUVENILES PLACED FOR  
4 ADOPTION IN CONFORMANCE WITH FEDERAL ADOPTION AND SAFE  
5 FAMILIES ACT REQUIREMENTS, AND TO AUTHORIZE THE LEGISLATIVE  
6 RESEARCH COMMISSION TO STUDY CHANGES TO THE JUVENILE  
7 JUSTICE SYSTEM PERTAINING TO CHILD ABUSE, NEGLECT, AND  
8 DEPENDENCY.

9 The General Assembly of North Carolina enacts:

10  
11 **PART I. ADOPTION AND SAFE FAMILIES ACT CHANGES - CERTAIN**  
12 **SECTIONS EFFECTIVE UNTIL JUNE 30, 1999.**

13                   Section 1. G.S. 7A-517 reads as rewritten:

14 **"§ 7A-517. Definitions.**

15           Unless the context clearly requires otherwise, the following words have the listed  
16 meanings:

- 1 (1) Abused juveniles. – Any juvenile less than 18 years of age whose  
2 parent, guardian, custodian, or caretaker:
- 3 a. Inflicts or allows to be inflicted upon the juvenile a serious  
4 physical injury by other than accidental means; or
- 5 b. Creates or allows to be created a substantial risk of serious  
6 physical injury to the juvenile by other than accidental means; or
- 7 b1. Uses or allows to be used upon the juvenile cruel or grossly  
8 inappropriate procedures or cruel or grossly inappropriate  
9 devices to modify behavior; or
- 10 c. Commits, permits, or encourages the commission of a violation  
11 of the following laws by, with, or upon the juvenile: first degree  
12 rape, as provided in G.S. 14-27.2; second degree rape as  
13 provided in G.S. 14-27.3; first degree sexual offense, as provided  
14 in G.S. 14-27.4; second degree sexual offense, as provided in  
15 G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-  
16 27.7; crime against nature, as provided in G.S. 14-177; incest, as  
17 provided in G.S. 14-178 and 14-179; preparation of obscene  
18 photographs, slides or motion pictures of the juvenile, as  
19 provided in G.S. 14-190.5; employing or permitting the juvenile  
20 to assist in a violation of the obscenity laws as provided in G.S.  
21 14-190.6; dissemination of obscene material to the juvenile as  
22 provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or  
23 disseminating material harmful to the juvenile as provided in  
24 G.S. 14-190.14 and G.S. 14-190.15; first and second degree  
25 sexual exploitation of the juvenile as provided in G.S. 14-190.16  
26 and G.S. 14-190.17; promoting the prostitution of the juvenile as  
27 provided in G.S. 14-190.18; and taking indecent liberties with the  
28 juvenile, as provided in G.S. 14-202.1, regardless of the age of  
29 the parties; or
- 30 d. Creates or allows to be created serious emotional damage to the  
31 juvenile. Serious emotional damage is evidenced by a juvenile's  
32 severe anxiety, depression, withdrawal or aggressive behavior  
33 toward himself or others; or
- 34 e. Encourages, directs, or approves of delinquent acts involving  
35 moral turpitude committed by the juvenile.
- 36 (2) Aftercare. – The supervision of a juvenile who has been returned to the  
37 community on conditional release after having been committed to the  
38 Division of Youth Services.
- 39 (3) Administrator for Juvenile Services. – The person who is responsible  
40 for the planning, organization, and administration of a statewide system  
41 of juvenile intake, probation, and aftercare services.
- 42 (3a) Aggravated circumstances. – Any circumstance attending to the  
43 commission of an act of abuse or neglect which increases its enormity

- 1 or adds to its injurious consequences, including, but not limited to,  
2 abandonment, torture, chronic abuse, or sexual abuse.
- 3 (4) Director of the Division of Youth Services. – The person responsible for  
4 the supervision of the administration of institutional and detention  
5 services.
- 6 (5) Caretaker. – Any person other than a parent, guardian, or custodian who  
7 has responsibility for the health and welfare of a juvenile in a residential  
8 setting. A person responsible for a juvenile's health and welfare means a  
9 stepparent, foster parent, an adult member of the juvenile's household,  
10 an adult relative entrusted with the juvenile's care, or any person such as  
11 a house parent or cottage parent who has primary responsibility for  
12 supervising a juvenile's health and welfare in a residential child care  
13 facility or residential educational facility. 'Caretaker' also means any  
14 person who has the responsibility for the care of a juvenile in a child  
15 care facility as defined in Article 7 of Chapter 110 of the General  
16 Statutes and includes any person who has the approval of the care  
17 provider to assume responsibility for the juveniles under the care of the  
18 care provider. Nothing in this subdivision shall be construed to impose a  
19 legal duty of support under Chapter 50 or Chapter 110 of the General  
20 Statutes. The duty imposed upon a caretaker as defined in this  
21 subdivision shall be for the purpose of Chapter 7A of the General  
22 Statutes only.
- 23 (6) Chief Court Counselor. – The person responsible for administration and  
24 supervision of juvenile intake, probation, and aftercare in each judicial  
25 district, operating under the supervision of the Administrator for  
26 Juvenile Services.
- 27 (7) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy  
28 clerk.
- 29 (8) Community-based program. – A program providing nonresidential or  
30 residential treatment to a juvenile in the community where his family  
31 lives. A community-based program may include specialized foster care,  
32 family counseling, shelter care, and other appropriate treatment.
- 33 (9) Court. – The District Court Division of the General Court of Justice.
- 34 (9a) Court of competent jurisdiction. – A court having the power and  
35 authority of law to act at the time of acting over the subject matter of the  
36 cause.
- 37 (10) Court counselor. – A person responsible for probation and aftercare  
38 services to juveniles on probation or on conditional release from the  
39 Division of Youth Services under the supervision of the chief court  
40 counselor.
- 41 (11) Custodian. – The person or agency that has been awarded legal custody  
42 of a juvenile by a court.

- 1 (12) Delinquent juvenile. – Any juvenile less than 16 years of age who has  
2 committed a crime or infraction under State law or under an ordinance  
3 of local government, including violation of the motor vehicle laws.
- 4 (13) Dependent Juvenile. – A juvenile in need of assistance or placement  
5 because the juvenile has no parent, guardian, or custodian responsible  
6 for the juvenile's care or supervision or whose parent, guardian, or  
7 custodian is unable to provide for the care or supervision and lacks an  
8 appropriate alternative child care arrangement.
- 9 (14) Detention. – The confinement of a juvenile pursuant to an order for  
10 secure custody pending an adjudicatory or dispositional hearing or  
11 admission to a placement with the Division of Youth Services.
- 12 (15) Detention home. – An authorized facility providing secure custody for  
13 juveniles.
- 14 (15a) District. – Any district court district as established by G.S. 7A-133.
- 15 (16) Holdover facility. – A place in a jail which has been approved by the  
16 Department of Health and Human Services as meeting the State  
17 standards for detention as required in G.S. 153A-221 providing close  
18 supervision where the juvenile cannot converse with, see, or be seen by  
19 the adult population.
- 20 (16.1) In loco parentis. – A person acting in loco parentis means one, other  
21 than parents or legal guardian, who has assumed the status and  
22 obligation of a parent without being awarded the legal custody of a  
23 juvenile by a court.
- 24 (17) Intake counselor. – A person who screens a petition alleging that a  
25 juvenile is delinquent or undisciplined to determine whether the petition  
26 should be filed.
- 27 (18) Interstate Compact on Juveniles. – An agreement ratified by 50 states  
28 and the District of Columbia providing a formal means of returning a  
29 juvenile, who is an absconder, escapee or runaway, to his home state.
- 30 (19) Judge. – Any district court judge.
- 31 (19a) Judicial district. – Any district court district as established by G.S. 7A-  
32 133.
- 33 (20) Juvenile. – Any person who has not reached his eighteenth birthday and  
34 is not married, emancipated, or a member of the armed services of the  
35 United States. For the purposes of subdivisions (12) and (28) of this  
36 section, a juvenile is any person who has not reached his sixteenth  
37 birthday and is not married, emancipated, or a member of the armed  
38 forces. A juvenile who is married, emancipated, or a member of the  
39 armed forces, shall be prosecuted as an adult for the commission of a  
40 criminal offense. Wherever the term 'juvenile' is used with reference to  
41 rights and privileges, that term encompasses the attorney for the juvenile  
42 as well.

- 1 (21) Neglected Juvenile. – A juvenile who does not receive proper care,  
2 supervision, or discipline from the juvenile's parent, guardian,  
3 custodian, or caretaker; or who has been abandoned; or who is not  
4 provided necessary medical care; or who is not provided necessary  
5 remedial care; or who lives in an environment injurious to the juvenile's  
6 welfare; or who has been placed for care or adoption in violation of law.  
7 In determining whether a juvenile is a neglected juvenile, it is relevant  
8 whether that juvenile lives in a home where another juvenile has died as  
9 a result of suspected abuse or neglect or lives in a home where another  
10 juvenile has been subjected to abuse or neglect by an adult who  
11 regularly lives in the home.
- 12 (22) Petitioner. – The individual who initiates court action, whether by the  
13 filing of a petition or of a motion for review alleging the matter for  
14 adjudication.
- 15 (23) Probation. – The status of a juvenile who has been adjudicated  
16 delinquent, is subject to specified conditions under the supervision of a  
17 court counselor, and may be returned to the court for violation of those  
18 conditions during the period of probation.
- 19 (24) Prosecutor. – The assistant district attorney assigned by the district  
20 attorney to juvenile proceedings.
- 21 (25) Protective supervision. – The status of a juvenile who has been  
22 adjudicated delinquent or undisciplined and is under the supervision of a  
23 court counselor.
- 24 (25a) Reasonable efforts. – The diligent use of preventive or reunification  
25 services by a department of social services when a juvenile's remaining  
26 at home or returning home is consistent with achieving a safe,  
27 permanent home for the juvenile within a reasonable period of time. If a  
28 court of competent jurisdiction determines that the juvenile is not to be  
29 returned home, then reasonable efforts means the diligent and timely use  
30 of permanency planning services by a department of social services to  
31 develop and implement a permanent plan for the juvenile.
- 32 (26) Regional detention home. – A state-supported and administered regional  
33 facility providing detention care.
- 34 (26a) Safe home. – A home in which the child is not at substantial risk of  
35 physical or emotional abuse or neglect.
- 36 (27) Shelter care. – The temporary care of a juvenile in a physically  
37 unrestricting facility pending court disposition.
- 38 (28) Undisciplined juvenile. – A juvenile less than 16 years of age who is  
39 unlawfully absent from school; or who is regularly disobedient to his  
40 parent, guardian, or custodian and beyond their disciplinary control; or  
41 who is regularly found in places where it is unlawful for a juvenile to  
42 be; or who has run away from home.

1           (29) Director of the department of social services. – The director of the  
2           county department of social services in the county in which the juvenile  
3           resides or is found, or his representative as authorized in G.S. 108A-14.

4           The singular includes the plural, the masculine singular includes the feminine singular  
5           and masculine and feminine plural unless otherwise specified."

6           Section 2. G.S. 7A-544 reads as rewritten:

7           "**§ 7A-544. Investigation by Director; access to confidential information; notification**  
8           **of person making the report.**

9           When a report of abuse, neglect, or dependency is received, the Director of the  
10          Department of Social Services shall make a prompt and thorough investigation in order to  
11          ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to  
12          the juvenile, in order to determine whether protective services should be provided or the  
13          complaint filed as a petition. When the report alleges abuse, the Director shall  
14          immediately, but no later than 24 hours after receipt of the report, initiate the  
15          investigation. When the report alleges neglect or dependency, the Director shall initiate  
16          the investigation within 72 hours following receipt of the report. The investigation and  
17          evaluation shall include a visit to the place where the juvenile resides. All information  
18          received by the Department of Social Services, including the identity of the reporter, shall  
19          be held in strictest confidence by the Department.

20          When a report of a juvenile's death as a result of suspected maltreatment or a report of  
21          suspected abuse, neglect, or dependency of a juvenile is received, the Director of the  
22          Department of Social Services shall immediately ascertain if other juveniles remain in the  
23          home, and, if so, initiate an investigation in order to determine whether they require  
24          protective services or whether immediate removal of the juveniles from the home is  
25          necessary for their protection.

26          If the investigation indicates that abuse, neglect, or dependency has occurred, the  
27          Director shall decide whether immediate removal of the juvenile or any other juveniles in  
28          the home is necessary for their protection. If immediate removal does not seem  
29          necessary, the Director shall immediately provide or arrange for protective services. If the  
30          parent or other caretaker refuses to accept the protective services provided or arranged by  
31          the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the  
32          court for the protection of the juvenile or juveniles.

33          If immediate removal seems necessary for the protection of the juvenile or other  
34          juveniles in the home, the Director shall sign a complaint which alleges the applicable  
35          facts to invoke the jurisdiction of the court. Where the investigation shows that it is  
36          warranted, a protective services worker may assume temporary custody of the juvenile  
37          for the juvenile's protection pursuant to Article 46 of this Chapter.

38          In performing any duties related to the investigation of the complaint or the provision  
39          or arrangement for protective services, the Director may consult with any public or  
40          private agencies or individuals, including the available State or local law-enforcement  
41          officers who shall assist in the investigation and evaluation of the seriousness of any  
42          report of abuse, neglect, or dependency when requested by the Director. The Director or  
43          the Director's representative may make a written demand for any information or reports,

1 whether or not confidential, that may in the Director's opinion be relevant to the  
2 investigation of or the provision for protective services. Upon the Director's or the  
3 Director's representative's request and unless protected by the attorney-client privilege,  
4 any public or private agency or individual shall provide access to and copies of this  
5 confidential information and these records to the extent permitted by federal law and  
6 regulations. If a custodian of criminal investigative information or records believes that  
7 release of the information will jeopardize the right of the State to prosecute a defendant  
8 or the right of a defendant to receive a fair trial or will undermine an ongoing or future  
9 investigation, it may seek an order from a court of competent jurisdiction to prevent  
10 disclosure of the information. In such an action, the custodian of the records shall have  
11 the burden of showing by a preponderance of the evidence that disclosure of the  
12 information in question will jeopardize the right of the State to prosecute a defendant or  
13 the right of a defendant to receive a fair trial or will undermine an ongoing or future  
14 investigation. Actions brought pursuant to this paragraph shall be set down for immediate  
15 hearing, and subsequent proceedings in the actions shall be accorded priority by the trial  
16 and appellate courts.

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

21 Within five working days after completion of the protective services investigation, the  
22 Director shall give subsequent written notice to the person making the report, unless  
23 requested by that person not to give notice, as to whether there is a finding of abuse,  
24 neglect, or dependency, whether the county Department of Social Services is taking  
25 action to protect the juvenile, and what action it is taking, including whether or not a  
26 petition was filed. The person making the report shall be informed of procedures  
27 necessary to request a review by the prosecutor of the Director's decision not to file a  
28 petition. A request for review by the prosecutor shall be made within five working days  
29 of receipt of the second notification. The second notification shall include notice that, if  
30 the person making the report is not satisfied with the Director's decision, he may request  
31 review of the decision by the prosecutor within five working days of receipt. The person  
32 making the report may waive the person's right to this notification and no notification is  
33 required if the person making the report does not identify himself to the Director."

34 Section 3. G.S. 7A-576 reads as rewritten:

35 **"§ 7A-576. Place of secure or nonsecure custody.**

36 (a) A juvenile meeting the criteria set out in G.S. 7A-574, subsection (a), may be  
37 placed in nonsecure custody with the Department of Social Services or a person  
38 designated in the order for 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~~ facility, including a relative's home, approved  
43 by the court and designated in the order.

1 In placing a juvenile in nonsecure custody under this ~~section and under G.S. 7A-629 and~~  
2 ~~G.S. 7A-651, section,~~ the court shall first consider whether a relative of the juvenile is  
3 willing and able to provide proper care and supervision of the juvenile in a safe home. If  
4 the court finds that the relative is willing and able to provide proper care and supervision  
5 in a safe home, then the court shall order placement of the juvenile with the ~~relative.~~  
6 relative unless the court finds that placement with the relative would be contrary to the  
7 best interests of the juvenile. Prior to placement In placing a juvenile in nonsecure custody  
8 under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-  
9 608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum  
10 Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as  
11 they may apply. Placement of a juvenile with a relative outside of this State, the placement  
12 State must be in accordance with the Interstate Compact on the Placement of Children.

13 (b) A juvenile meeting the criteria set out in G.S. 7A-574(b) may be temporarily  
14 detained in an approved county detention home or a regional detention facility which  
15 shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be  
16 unlawful for a county or any unit of government to operate a juvenile detention home  
17 unless the facility meets the standards promulgated by the Department of Health and  
18 Human Services."

19 Section 4. G.S. 7A-577 reads as rewritten:

20 "**§ 7A-577. Hearing to determine need for continued secure or nonsecure custody.**

21 (a) No juvenile shall be held under a secure custody order for more than five  
22 calendar days or under a nonsecure custody order for more than seven calendar days,  
23 without a hearing on the merits or a hearing to determine the need for continued custody.  
24 A hearing on secure custody conducted under this subsection may not be continued or  
25 waived. A hearing on nonsecure custody conducted under this subsection may be  
26 continued for up to 10 business days with the consent of the juvenile's parent, guardian,  
27 or custodian, and, if appointed, the juvenile's guardian ad litem. In addition, the court  
28 may require the consent of additional parties or may schedule the hearing on nonsecure  
29 custody despite a party's consent to a continuance. In every case in which an order has  
30 been entered by an official exercising authority delegated pursuant to G.S. 7A-573, a  
31 hearing to determine the need for continued custody shall be conducted on the day of the  
32 next regularly scheduled session of district court in the city or county where the order  
33 was entered if such session precedes the expiration of the applicable time period set forth  
34 in this subsection: Provided, that if such session does not precede the expiration of the  
35 time period, the hearing may be conducted at another regularly scheduled session of  
36 district court in the district where the order was entered.

37 (b) Any juvenile who is alleged to be delinquent shall be advised of the right to  
38 have legal representation as provided in G.S. 7A-584 if the juvenile appears without  
39 counsel at the hearing.

40 (c) At a hearing to determine the need for continued custody, the judge shall  
41 receive testimony and shall allow the juvenile, and the juvenile's parent, guardian, or  
42 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to  
43 examine witnesses. The State shall bear the burden at every stage of the proceedings to



1 provide clear and convincing evidence that restraints on the juvenile's liberty are  
2 necessary and that no less intrusive alternative will suffice. The judge shall not be bound  
3 by the usual rules of evidence at such hearings.

4 (d) The judge shall be bound by criteria set forth in G.S. 7A-574 in determining  
5 whether continued custody is warranted.

6 (e) The judge shall impose the least restrictive interference with the liberty of a  
7 juvenile who is released from secure custody including:

8 (1) Release on the written promise of the juvenile's parent, guardian, or  
9 custodian to produce the juvenile in court for subsequent proceedings;  
10 or

11 (2) Release into the care of a responsible person or organization; or

12 (3) Release conditioned on restrictions on activities, associations, residence  
13 or travel if reasonably related to securing the juvenile's presence in  
14 court; or

15 (4) Any other conditions reasonably related to securing the juvenile's  
16 presence in court.

17 (f) If the judge determines that the juvenile meets the criteria in G.S. 7A-574 and  
18 should continue in custody, the judge shall issue an order to that effect. The order shall be  
19 in writing with appropriate findings of fact. The findings of fact shall include the  
20 evidence relied upon in reaching the decision and the purposes which continued custody  
21 is to achieve.

22 (g) Pending a hearing on the merits, further hearings to determine the need for  
23 continued secure custody shall be held at intervals of no more than seven calendar days.  
24 A subsequent hearing on continued nonsecure custody shall be held within seven  
25 business days, excluding Saturdays, Sundays, and legal holidays, of the initial hearing  
26 required in subsection (a) of this section and hearings thereafter shall be held at intervals  
27 of no more than 30 calendar days.

28 (g1) Hearings conducted under subsection (g) of this section may be waived as  
29 follows:

30 (1) In the case of a juvenile alleged to be delinquent, only with the consent  
31 of the juvenile, through counsel for the juvenile; and

32 (2) In the case of a juvenile alleged to be abused, neglected, or dependent,  
33 only with the consent of the juvenile's parent, guardian, or custodian,  
34 and, if appointed, the juvenile's guardian ad litem.

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

37 ~~(h) Any order authorizing the continued nonsecure custody of a juvenile who is~~  
38 ~~alleged to be abused, neglected, or dependent shall include findings as to whether~~  
39 ~~reasonable efforts have been made to prevent or eliminate the need for placement of the~~  
40 ~~juvenile in custody and may provide for services or other efforts aimed at returning the~~  
41 ~~juvenile promptly to a safe home. A finding that reasonable efforts have not been made~~  
42 ~~shall not preclude the entry of an order authorizing continued nonsecure custody when~~  
43 ~~the court finds that continued nonsecure custody is necessary for the protection of the~~

1 juvenile. Where efforts to prevent the need for the juvenile's placement were precluded  
2 by an immediate threat of harm to the juvenile, the court may find that the placement of  
3 the juvenile in the absence of such efforts was reasonable. If the court finds through  
4 written findings of fact that efforts to eliminate the need for placement of the juvenile in  
5 custody clearly would be futile or would be inconsistent with the juvenile's safety and  
6 need for a safe, permanent home within a reasonable period of time, then the court shall  
7 specify in its order that reunification efforts are not required or order that reunification  
8 efforts cease.

9 (i) At each hearing to determine the need for continued nonsecure custody, the  
10 court shall:

11 (1) Inquire as to the identity and location of any missing parent. The court  
12 shall include findings as to the efforts undertaken to locate the missing  
13 parent and to serve that parent. The order may provide for specific  
14 efforts aimed at determining the identity and location of any missing  
15 parent;

16 (2) Inquire as to whether a relative of the juvenile is willing and able to  
17 provide proper care and supervision of the juvenile in a safe home. If  
18 the court finds that the relative is willing and able to provide proper care  
19 and supervision in a safe home, then the court shall order temporary  
20 placement of the juvenile with the ~~relative~~-relative unless the court finds  
21 that placement with the relative would be contrary to the best interests  
22 of the juvenile. Prior to placement-In placing a juvenile in nonsecure  
23 custody under this section, the court shall consider the Indian Child  
24 Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as  
25 amended, and the Howard M. Metzenbaum Multiethnic Placement Act  
26 of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may  
27 apply. Placement of a juvenile with a relative outside of this State, the  
28 ~~placement~~-State must be in accordance with the Interstate Compact on  
29 the Placement of Children; and

30 (3) Inquire as to whether there are other juveniles remaining in the home  
31 from which the juvenile was removed and, if there are, inquire as to the  
32 specific findings of the investigation conducted under G.S. 7A-544 and  
33 any actions taken or services provided by the Director for the protection  
34 of the other juveniles."

35 Section 4.1. Article 46 of Chapter 7A of the General Statutes is amended by  
36 adding the following new section to read:

37 **"§ 7A-577.1. Reasonable efforts.**

38 (a) An order placing or continuing the placement of a juvenile in the custody or  
39 placement responsibility of a county department of social services, whether an order for  
40 continued nonsecure custody, a dispositional order, or a review order:

41 (1) Shall contain a finding that the juvenile's continuation in or return to the  
42 juvenile's own home would be contrary to the juvenile's best interest;

1           (2) Shall contain findings as to whether a county department of social  
2 services has made reasonable efforts to prevent or eliminate the need for  
3 placement of the juvenile, unless the court has previously determined  
4 under subsection (b) of this section that such efforts are not required or  
5 shall cease;

6           (3) Shall contain findings as to whether a county department of social  
7 services should continue to make reasonable efforts to prevent or  
8 eliminate the need for placement of the juvenile, unless the court has  
9 previously determined or determines under subsection (b) of this section  
10 that such efforts are not required or shall cease;

11           (4) Shall specify that the juvenile's placement and care are the responsibility  
12 of the county department of social services and that the agency is to  
13 provide or arrange for the foster care or other placement of the juvenile;  
14 and

15           (5) May provide for services or other efforts aimed at returning the juvenile  
16 to a safe home or at achieving another permanent plan for the juvenile.

17 A finding that reasonable efforts have not been made by a county department of social  
18 services shall not preclude the entry of an order authorizing the juvenile's placement  
19 when the court finds that placement is necessary for the protection of the juvenile. Where  
20 efforts to prevent the need for the juvenile's placement were precluded by an immediate  
21 threat of harm to the juvenile, the court may find that the placement of the juvenile in the  
22 absence of such efforts was reasonable.

23           (b) In any order placing a juvenile in the custody or placement responsibility of a  
24 county department of social services, whether an order for continued nonsecure custody,  
25 a dispositional order, or a review order, the court may direct that reasonable efforts to  
26 eliminate the need for placement of the juvenile shall not be required or shall cease if the  
27 court makes written findings of fact that:

28           (1) Such efforts clearly would be futile or would be inconsistent with the  
29 juvenile's health, safety, and need for a safe, permanent home within a  
30 reasonable period of time;

31           (2) A court of competent jurisdiction has determined that the parent has  
32 subjected the child to aggravated circumstances as defined in G.S. 7A-  
33 517(3a);

34           (3) A court of competent jurisdiction has terminated involuntarily the  
35 parental rights of the parent to another child of the parent; or

36           (4) A court of competent jurisdiction has determined that: the parent has  
37 committed murder or voluntary manslaughter of another child of the  
38 parent; has aided, abetted, attempted, conspired, or solicited to commit  
39 murder or voluntary manslaughter of the child or another child of the  
40 parent; or has committed a felony assault resulting in serious bodily  
41 injury to the child or another child of the parent.

42           (c) At any hearing at which the court finds that reasonable efforts to eliminate the  
43 need for the juvenile's placement are not required or shall cease, the court shall direct that

1 a permanency planning hearing as required by G.S. 7A-657.1 be held within 30 calendar  
2 days after the date of the hearing and, if practicable, shall set the date and time for the  
3 permanency planning hearing.

4 (d) In determining reasonable efforts to be made with respect to a juvenile and in  
5 making such reasonable efforts, the juvenile's health and safety shall be the paramount  
6 concern. Reasonable efforts to preserve or reunify families may be made concurrently  
7 with efforts to plan for the juvenile's adoption, to place the juvenile with a legal guardian,  
8 or to place the juvenile in another permanent arrangement."

9 Section 5. G.S. 7A-629 reads as rewritten:

10 **"§ 7A-629. Adjudicatory hearing.**

11 The adjudicatory hearing shall be held in the district at such time and place as the  
12 chief district judge shall ~~designate~~ designate but no later than 60 days from the filing of  
13 the petition, unless the judge pursuant to G.S. 7A-632 orders that it be held at a later time.  
14 The judge may exclude the public from the hearing unless the juvenile moves that the  
15 hearing be open, which motion shall be granted."

16 Section 6. G.S. 7A-647 reads as rewritten:

17 **"§ 7A-647. Dispositional alternatives for delinquent, undisciplined, abused,**  
18 **neglected, or dependent juvenile.**

19 The following alternatives for disposition shall be available to any judge exercising  
20 jurisdiction, and the judge may combine any of the applicable alternatives when he finds  
21 such disposition to be in the best interest of the juvenile:

22 (1) The judge may dismiss the case, or continue the case in order to allow  
23 the juvenile, parent, or others to take appropriate action.

24 (2) In the case of any juvenile who needs more adequate care or supervision  
25 or who needs placement, the judge may:

26 a. Require that he be supervised in his own home by the  
27 Department of Social Services in his county, a court counselor or  
28 other personnel as may be available to the court, subject to  
29 conditions applicable to the parent or the juvenile as the judge  
30 may specify; or

31 b. Place him in the custody of a parent, relative, private agency  
32 offering placement services, or some other suitable person; or

33 c. Place him in the custody of the Department of Social Services in  
34 the county of his residence, or in the case of a juvenile who has  
35 legal residence outside the State, in the physical custody of the  
36 Department of Social Services in the county where he is found so  
37 that agency may return the juvenile to the responsible authorities  
38 in his home state. The Director may, unless otherwise ordered by  
39 the judge, arrange for, provide, or consent to, needed routine or  
40 emergency medical or surgical care or treatment. In the case  
41 where the parent is unknown, unavailable or unable to act on  
42 behalf of their child or children, the Director may, unless  
43 otherwise ordered by the judge, arrange for, provide or consent to

1 any psychiatric, psychological, educational, or other remedial  
2 evaluations or treatment for the juvenile placed by a judge or his  
3 designee in the custody or physical custody of a county  
4 Department of Social Services under the authority of this or any  
5 other Chapter of the General Statutes. Prior to exercising this  
6 authority, the Director shall make reasonable efforts to obtain  
7 consent from a parent or guardian of the affected child. If the  
8 Director can not obtain such consent, the Director shall promptly  
9 notify the parent or guardian that care or treatment has been  
10 provided and shall give him frequent status reports on the  
11 circumstances of the child. Upon request of a parent or guardian  
12 of the affected child, the results or records of the aforementioned  
13 evaluations, findings or treatment shall be made available to such  
14 parent or guardian by the Director unless prohibited by G.S.  
15 122C-53(d). If a juvenile is removed from the home and placed  
16 in custody or placement responsibility of a county department of  
17 social services, the Director shall not allow unsupervised  
18 visitation with, or return physical custody of the juvenile to, the  
19 parent or person standing in loco parentis without a hearing at  
20 which the court finds that the juvenile will receive proper care  
21 and supervision in a safe home.

22 In placing a juvenile in out-of-home care under this section,  
23 the court shall first consider whether a relative of the juvenile is  
24 willing and able to provide proper care and supervision of the  
25 juvenile in a safe home. If the court finds that the relative is  
26 willing and able to provide proper care and supervision in a safe  
27 home, then the court shall order placement of the juvenile with  
28 the relative unless the court finds that the placement is contrary  
29 to the best interests of the juvenile. Placement of a juvenile with  
30 a relative outside of this State must be in accordance with the  
31 Interstate Compact on the Placement of Children.

- 32 (3) In any case, the judge may order that the juvenile be examined by a  
33 physician, psychiatrist, psychologist or other qualified expert as may be  
34 needed for the judge to determine the needs of the juvenile.
- 35 a. Upon completion of the examination, the judge shall conduct a  
36 hearing to determine whether the juvenile is in need of medical,  
37 surgical, psychiatric, psychological, or other treatment and who  
38 should pay the cost of the treatment. The county manager, or  
39 such person who shall be designated by the chairman of the  
40 county commissioners, of the juvenile's residence shall be  
41 notified of the hearing, and allowed to be heard. If the judge  
42 finds the juvenile to be in need of medical, surgical, psychiatric,  
43 psychological or other treatment, the judge shall permit the

1 parent or other responsible persons to arrange for treatment. If  
2 the parent declines or is unable to make necessary arrangements,  
3 the judge may order the needed treatment, surgery or care, and  
4 the judge may order the parent to pay the cost of the care  
5 pursuant to G.S. 7A-650. If the judge finds the parent is unable to  
6 pay the cost of treatment, the judge shall order the county to  
7 arrange for treatment of the juvenile and to pay for the cost of the  
8 treatment. The county department of social services shall  
9 recommend the facility that will provide the juvenile with  
10 treatment.

- 11 b. If the judge believes, or if there is evidence presented to the  
12 effect that the juvenile is mentally ill or is developmentally  
13 disabled, the judge shall refer the juvenile to the area mental  
14 health, developmental disabilities, and substance abuse services  
15 director for appropriate action. A juvenile shall not be committed  
16 directly to a State hospital or mental retardation center; and  
17 orders purporting to commit a juvenile directly to a State hospital  
18 or mental retardation center except for an examination to  
19 determine capacity to proceed shall be void and of no effect. The  
20 area mental health, developmental disabilities, and substance  
21 abuse director shall be responsible for arranging an  
22 interdisciplinary evaluation of the juvenile and mobilizing  
23 resources to meet the juvenile's needs. If institutionalization is  
24 determined to be the best service for the juvenile, admission shall  
25 be with the voluntary consent of the parent or guardian. If the  
26 parent, guardian, or custodian refuses to consent to a mental  
27 hospital or retardation center admission after such  
28 institutionalization is recommended by the area mental health,  
29 developmental disabilities, and substance abuse director, the  
30 signature and consent of the judge may be substituted for that  
31 purpose. In all cases in which a regional mental hospital refuses  
32 admission to a juvenile referred for admission by a judge and an  
33 area mental health, developmental disabilities, and substance  
34 abuse director or discharges a juvenile previously admitted on  
35 court referral prior to completion of his treatment, the hospital  
36 shall submit to the judge a written report setting out the reasons  
37 for denial of admission or discharge and setting out the juvenile's  
38 diagnosis, indications of mental illness, indications of need for  
39 treatment, and a statement as to the location of any facility  
40 known to have a treatment program for the juvenile in question.
- 41 (4) In any case in which a juvenile, who was at least eleven years of age at  
42 the time of the offense, is adjudicated delinquent for committing a  
43 violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second

1 degree rape), 14-27.4 (first degree sexual offense), 14-27.5 (second  
2 degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual  
3 offense), the judge, upon a finding that the juvenile is a danger to the  
4 community, may order that the juvenile register in accordance with Part  
5 4 of Article 27A of Chapter 14 of the General Statutes."

6 Section 7. G.S. 7A-651 reads as rewritten:

7 **"§ 7A-651. Dispositional order.**

8 (a) The dispositional order shall be in writing and shall contain appropriate  
9 findings of fact and conclusions of law. The judge shall state with particularity, both  
10 orally and in the written order of disposition, the precise terms of the disposition  
11 including the kind, duration and the person who is responsible for carrying out the  
12 disposition and the person or agency in whom custody is vested.

13 (b) A dispositional order under which a juvenile is removed from the custody of a  
14 parent or person standing in loco parentis shall direct that the review hearing required by  
15 G.S. 7A-657 be held within ~~six months of~~ 90 days from the date of the juvenile's placement  
16 ~~in custody~~ dispositional hearing and, if practicable, shall set the date and time for the  
17 review hearing.

18 (c) Any dispositional order directing placement of a juvenile in foster care shall also  
19 ~~contain: shall comply with the requirements of G.S. 7A-577.1.~~

20 (1) ~~A finding that the juvenile's continuation in or return to his own home~~  
21 ~~would be contrary to the juvenile's best interest; and~~

22 (2) ~~Findings as to whether reasonable efforts have been made to prevent or~~  
23 ~~eliminate the need for placement of the juvenile in foster care. A finding~~  
24 ~~that reasonable efforts were not made shall not preclude entry of a~~  
25 ~~dispositional order authorizing placement in foster care when the court~~  
26 ~~finds that such placement is needed for protection of the juvenile. When~~  
27 ~~efforts to prevent the need for the juvenile's placement are precluded by~~  
28 ~~an immediate threat of harm to the juvenile, the court may find that~~  
29 ~~placement of the juvenile in the absence of such efforts is reasonable.~~

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

36 (d) ~~An order that places a juvenile in the custody of a county department of social~~  
37 ~~services for placement shall specify that the juvenile's placement and care are the~~  
38 ~~responsibility of the county department of social services and that the county department~~  
39 ~~is to provide or arrange for the foster care or other placement of the juvenile. Any~~  
40 ~~dispositional order shall provide for appropriate visitation as may be in the best interests~~  
41 ~~of the juvenile and consistent with the juvenile's health and safety. If the juvenile is~~  
42 ~~placed in the custody or placement responsibility of a county department of social~~

1 services, the court may order the director to arrange, facilitate, and supervise a visitation  
2 plan expressly approved by the court.

3 (e) An order that commits a juvenile to the Division of Youth Services shall recite  
4 detailed findings that support commitment to the Division as the least restrictive  
5 alternative in light of the circumstances. These findings shall state that all alternatives to  
6 commitment prescribed in G.S. 7A-647, 7A-648, and 7A-649 have been attempted  
7 unsuccessfully or were considered and found to be inappropriate and that the juvenile's  
8 behavior constitutes a threat to persons or property in the community. These findings  
9 shall be supported by substantial evidence in the record that the judge determined the  
10 needs of the juvenile, determined the appropriate community resources required to meet  
11 those needs, and explored and exhausted or considered inappropriate those resources  
12 prior to committing the juvenile to the Division."

13 Section 8. G.S. 7A-657 reads as rewritten:

14 **"§ 7A-657. Review of custody order.**

15 (a) In any case where custody is removed from a ~~parent, parent or person standing~~  
16 in loco parentis, the judge shall conduct a review hearing ~~within six months of 90 days~~  
17 from the date the order was entered, of the dispositional hearing shall conduct a second  
18 review within six months after the first review, and shall conduct a subsequent reviews  
19 review hearing within six months at least every year thereafter. The Director of Social  
20 Services shall make a timely requests-request to the clerk to calendar ~~the case each review~~  
21 at a session of court scheduled for the hearing of juvenile matters. ~~matters within six~~  
22 months of the date the order was entered. ~~The Director shall make timely requests for~~  
23 calendar subsequent reviews. ~~The clerk shall give 15 days' notice of the review and its~~  
24 purpose to the parent or and to any the person standing in loco parentis, the juvenile if 12  
25 years of age or more, the guardian, any foster parent, relative, or preadoptive parent  
26 providing care for the child, the custodian or agency with custody, the guardian ad litem,  
27 and any other person or agency the court may specify, indicating the court's impending  
28 review. Nothing in this subsection shall be construed to make any foster parent, relative,  
29 or preadoptive parent a party to the proceeding solely based on receiving notice and an  
30 opportunity to be heard.

31 (b) Notwithstanding other provisions of this Article, the court may waive the  
32 holding of review hearings required by subsection (a), may require written reports to the  
33 court by the agency or person holding custody in lieu of review hearings, or order that  
34 review hearings be held less often than every ~~12~~ six months, if the court finds by clear,  
35 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; and  
38 (2) The placement is stable and continuation of the placement is in the  
39 juvenile's best interest; and  
40 (3) Neither the juvenile's best interests nor the rights of any party require  
41 that review hearings be held every ~~12~~ six months; and



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 court counselor, the juvenile, the parent or person~~  
10 ~~standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any~~  
11 ~~public or private agency~~ the parent, any person standing in loco parentis, the juvenile, the  
12 guardian, any foster parent, relative, or preadoptive parent providing care for the child,  
13 the custodian or agency with custody, the guardian ad litem, and any other person or  
14 agency which will aid it in its review.

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

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

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

23 (3) Goals of the foster care placement and the appropriateness of the foster  
24 care plan;

25 (4) A new foster care plan, if continuation of care is sought, that addresses  
26 the role the current foster parent will play in the planning for the  
27 juvenile;

28 (5) Reports on the placements the juvenile has had and any services offered  
29 to the juvenile and the parent;

30 (5a) An appropriate visitation plan;

31 (5b) If the juvenile is 16 or 17 years of age, a report on an independent living  
32 assessment of the juvenile and, if appropriate, an independent living  
33 plan developed for the juvenile;

34 (6) When and if termination of parental rights should be considered;

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

36 (d) The judge, after making findings of fact, may appoint a guardian of the person  
37 for the juvenile pursuant to G.S. 7A-585 or may make any disposition authorized by G.S.  
38 7A-647, including the authority to place the child in the custody of either parent or any  
39 relative found by the court to be suitable and found by the court to be in the best interest  
40 of the juvenile. ~~If the juvenile is placed in or remains in the custody of the department of social~~  
41 ~~services, the court may authorize the department to arrange and supervise a visitation plan.~~  
42 ~~Except for such visitation, the juvenile shall not be returned to the parent or person standing in~~  
43 ~~loco parentis without a hearing at which the court finds sufficient facts to show that the juvenile~~

1 will receive proper care and supervision. The court may enter an order continuing the  
2 placement under review or providing for a different placement as is deemed to be in the  
3 best interest of the juvenile. If at any time custody is restored to a parent, the court shall  
4 be relieved of the duty to conduct periodic judicial reviews of the placement.

5 ~~-(d1) At a hearing designated by the court, but at least within 12 months after the~~  
6 ~~juvenile's placement, a review hearing shall be held under this section and designated as a~~  
7 ~~permanency planning hearing. The purpose of the hearing shall be to develop a plan to~~  
8 ~~achieve a safe, permanent home for the juvenile within a reasonable period of time.~~  
9 ~~Notice of the hearing shall inform the parties of the purpose of the hearing. At the~~  
10 ~~conclusion of the hearing, if the juvenile is not returned home, the judge shall make~~  
11 ~~specific findings as to the best plan of care to achieve a safe, permanent home for the~~  
12 ~~juvenile within a reasonable period of time and shall enter an order consistent with those~~  
13 ~~findings.~~

14 (e) The provisions of subsections (b), (c), and (d) of G.S. 7A-651 G.S. 7A-577.1  
15 shall apply to any order entered under this section ~~which continues the foster care~~  
16 ~~placement of a juvenile.~~ section."

17 Section 8.1. Article 52 of Chapter 7A of the General Statutes is amended by  
18 adding the following new section to read:

19 **"§ 7A-657.1. Permanency planning hearing.**

20 (a) In any case where custody is removed from a parent or person standing in loco  
21 parentis, the judge shall conduct a review hearing designated as a permanency planning  
22 hearing within 12 months after the date of the initial order removing custody, and the  
23 hearing may be combined, if appropriate, with a review hearing required by G.S. 7A-657.  
24 The purpose of the permanency planning hearing shall be to develop a plan to achieve a  
25 safe, permanent home for the juvenile within a reasonable period of time. Subsequent  
26 permanency planning hearings shall be held at least every six months thereafter, or earlier  
27 as set by the court, to review the progress made in finalizing the permanent plan for the  
28 juvenile, or if necessary, to make a new permanent plan for the juvenile. The Director of  
29 Social Services shall make a timely request to the clerk to calendar each permanency  
30 planning hearing at a session of court scheduled for the hearing of juvenile matters. The  
31 clerk shall give 15 days' notice of the hearing and its purpose to the parent and to any  
32 person standing in loco parentis, the juvenile if 12 years of age or more, the guardian, any  
33 foster parent, relative, or preadoptive parent providing care for the child, the custodian or  
34 agency with custody, the guardian ad litem, and any other person or agency the court may  
35 specify, indicating the court's impending review. Nothing in this provision shall be  
36 construed to make any foster parent, relative, or preadoptive parent a party to the  
37 proceeding solely based on receiving notice and an opportunity to be heard.

38 (b) At any permanency planning review, the court shall consider information from  
39 the parent, any person standing in loco parentis, the juvenile, the guardian, any foster  
40 parent, relative, or preadoptive parent providing care for the child, the custodian or  
41 agency with custody, the guardian ad litem, and any other person or agency which will  
42 aid it in the court's review. At the conclusion of the hearing, if the juvenile is not

1 returned home, the court shall consider the following criteria and make written findings  
2 regarding those that are relevant:

- 3 (1) Whether it is possible for the juvenile to be returned home immediately  
4 or within the next six months, and if not, why it is not in the juvenile's  
5 best interests to return home;  
6 (2) Where the juvenile's return home is unlikely within six months, whether  
7 legal guardianship or custody with a relative or some other suitable  
8 person should be established, and if so, the rights and responsibilities  
9 which should remain with the parents;  
10 (3) Where the juvenile's return home is unlikely within six months, whether  
11 adoption should be pursued, and if so, any barriers to the juvenile's  
12 adoption;  
13 (4) Where the juvenile's return home is unlikely within six months, whether  
14 the juvenile should remain in the current placement or be placed in  
15 another permanent living arrangement and why;  
16 (5) Whether the county department of social services has since the initial  
17 permanency plan hearing made reasonable efforts to implement the  
18 permanent plan for the juvenile;  
19 (6) Any other criteria the court deems necessary.

20 (c) At the conclusion of the hearing, the judge shall make specific findings as to  
21 the best plan of care to achieve a safe, permanent home for the juvenile within a  
22 reasonable period of time. The judge may appoint a guardian of the person for the  
23 juvenile pursuant to G.S. 7A-585 or make any disposition authorized by G.S. 7A-647,  
24 including the authority to place the child in the custody of either parent or any relative  
25 found by the court to be suitable and found by the court to be in the best interests of the  
26 juvenile. If the juvenile is not returned home, the court shall enter an order consistent  
27 with its findings that directs the department of social services to make reasonable efforts  
28 to place the juvenile in a timely manner in accordance with the permanent plan, to  
29 complete whatever steps are necessary to finalize the permanent placement of the  
30 juvenile, and to document such steps in the juvenile's case plan. If at any time custody is  
31 restored to a parent, or findings are made in accordance with G.S. 7A-657(b), the court  
32 shall be relieved of the duty to conduct periodic judicial reviews of the placement.

33 If the court continues the juvenile's placement in the custody or placement  
34 responsibility of a county department of social services, the provisions of G.S. 7A-577.1  
35 shall apply to any order entered under this section.

36 (d) In the case of a juvenile who is in the custody or placement responsibility of a  
37 county department of social services, and has been in placement outside the home for 15  
38 of the most recent 22 months; or a court of competent jurisdiction has determined that the  
39 parent has abandoned the child; or has committed murder or voluntary manslaughter of  
40 another child of the parent; or has aided, abetted, attempted, conspired, or solicited to  
41 commit murder or voluntary manslaughter of the child or another child of the parent, the  
42 court shall order the director of the department of social services to initiate a proceeding  
43 to terminate the parental rights of the parent unless the court finds:

1           (1) The permanent plan for the juvenile is guardianship or custody with a  
2           relative or some other suitable person;

3           (2) The court makes specific findings why the filing of a petition for  
4           termination of parental rights is not in the best interests of the child; or

5           (3) The department of social services has not provided the juvenile's family  
6           with such services as the department deems necessary, when reasonable  
7           efforts are still required to enable the juvenile's return to a safe home.

8           (e) If a proceeding to terminate the parental rights of the juvenile's parents is  
9           necessary in order to perfect the permanent plan for the juvenile, the director of the  
10           department of social services shall file a petition to terminate parental rights within 60  
11           calendar days from the date of the permanency planning hearing unless the court makes  
12           written findings why the petition cannot be filed within 60 days. If the court makes  
13           findings to the contrary, the court shall specify the time frame in which any needed  
14           petition to terminate parental rights shall be filed."

15           Section 9. G.S. 7A-659 reads as rewritten:

16           "**§ 7A-659. Post termination of parental rights' placement court review.**

17           (a) The purpose of each placement review is to insure that every reasonable effort  
18 is being made to provide for a permanent placement plan for the child who has been  
19 placed in the custody of a county director or licensed child-placing agency, which is  
20 consistent with the child's best interest. At each review hearing the court may consider  
21 information from the Department of Social Services, the licensed child-placing agency,  
22 the guardian ad litem, the child, ~~the any~~ foster parent, relative, or preadoptive parent  
23 providing care for the child, and any other person or agency the court determines is likely  
24 to aid in the review.

25           (b) The court shall conduct a placement review not later than six months from the  
26 date of the termination hearing when parental rights have been terminated by a petition  
27 brought by any person or agency designated in G.S. 7A-289.24(2) through (5) and a  
28 county director or licensed child-placing agency has custody of the child. The court shall  
29 conduct reviews every six months thereafter until the child is placed for adoption and the  
30 adoption petition is filed by the adoptive parents.

31           (1) No more than 30 days and no less than 15 days prior to each review, the  
32 clerk shall give notice of the review to the child if he is at least 12 years  
33 of age, the legal custodian of the child, ~~the any~~ foster parent, relative, or  
34 preadoptive parent providing care for the child, the guardian ad litem, if  
35 any, and any other person or agency the court may specify. Only the  
36 child if he is at least 12 years of age, the legal custodian of the child, ~~the~~  
37 any foster parent, relative, or preadoptive parent providing care for the  
38 child, and the guardian ad litem shall attend the review hearings, except  
39 as otherwise directed by the court. Nothing in this subdivision shall be  
40 construed to make any foster parent, relative, or preadoptive parent a  
41 party to the proceeding solely based on receiving notice and an  
42 opportunity to be heard.

1 (2) If a guardian ad litem for the child has not been appointed previously by  
2 the court in the termination proceeding, the court, at the initial six-  
3 month review hearing, may appoint a guardian ad litem to represent the  
4 child. The court may continue the case for such time as is necessary for  
5 the guardian ad litem to become familiar with the facts of the case.

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

7 (1) The adequacy of the plan developed by the county department of social  
8 services or a licensed child-placing agency for a permanent placement  
9 relative to the child's best interest and the efforts of the department or  
10 agency to implement such plan;

11 (2) Whether the child has been listed for adoptive placement with the North  
12 Carolina Adoption Resource Exchange, the North Carolina Photo  
13 Adoption Listing Service (PALS), or any other specialized adoption  
14 agency; and

15 (3) The efforts previously made by the department or agency to find a  
16 permanent home for the child.

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

20 (e) If the child has been placed for adoption prior to the date scheduled for the  
21 review, written notice of said placement shall be given to the clerk to be placed in the  
22 court file and the review hearing shall be cancelled, with notice of said cancellation given  
23 by the clerk to all persons previously notified.

24 (f) The process of selection of specific adoptive parents shall be the responsibility  
25 of and within the discretion of the county department of social services or licensed child-  
26 placing agency. The guardian ad litem may request information from and consult with  
27 the county department or child-placing agency concerning the selection process. If the  
28 guardian ad litem requests information about the selection process, the county shall  
29 provide the information within five days. Any issue of abuse of discretion by the county  
30 department or child-placing agency in the selection process must be raised by the  
31 guardian ad litem within 10 days following the date the agency notifies the court and the  
32 guardian ad litem in writing of the filing of the adoption petition."

33 Section 9.1. Article 24B of Chapter 7A of the General Statutes is amended by  
34 adding the following new section to read:

35 "**§ 7A-289.23.1. Pending child abuse, neglect, or dependency hearings.**

36 When a juvenile is currently within the jurisdiction of the district court based upon an  
37 abuse, neglect, or dependency proceeding, a petition for termination of parental rights to  
38 that juvenile may be filed as a motion in the cause in the abuse, neglect, or dependency  
39 proceeding. Any parent of that juvenile who was previously served in the abuse, neglect,  
40 or dependency proceeding in accordance with G.S. 7A-565 shall be served with the  
41 petition to terminate parental rights in accordance with G.S. 1A-1, Rule 5."

42 Section 10. G.S. 7A-289.27 reads as rewritten:

43 "**§ 7A-289.27. Issuance of summons.**

1 (a) Except as provided in G.S. 7A-289.26, upon the filing of the petition, the court  
2 shall cause a summons to be issued, directed to the following persons or agency, not  
3 otherwise a party petitioner, who shall be named as respondents:

4 (1) The parents of the child;

5 (2) Any person who has been judicially appointed as guardian of the person  
6 of the child;

7 (3) The custodian of the child appointed by a court of competent  
8 jurisdiction;

9 (4) Any county department of social services or licensed child-placing  
10 agency to whom a child has been released by one parent pursuant to Part  
11 7 of Article 3 of Chapter 48 of the General Statutes; Statutes or any  
12 county department of social services to whom placement responsibility  
13 for the child has been given by a court of competent jurisdiction; and

14 (5) The child, if he or she is 12 years of age or older at the time the petition  
15 is filed.

16 Provided, no summons need be directed to or served upon any parent who has  
17 previously surrendered the child to a county department of social services or licensed  
18 child-placing agency, nor to any parent who has consented to the adoption of the child by  
19 the petitioner. The summons shall notify the respondents to file a written answer within  
20 30 days after service of the summons and petition. Service of the summons shall be  
21 completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the  
22 parent of the child shall not be deemed to be under disability even though such parent is a  
23 minor.

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

26 (1) The name of the minor child;

27 (2) Notice that a written answer to the petition must be filed with the clerk  
28 who signed the petition within 30 days after service of the summons and  
29 a copy of the petition, or the parent's rights may be terminated;

30 (3) Notice that if they are indigent, the parents are entitled to appointed  
31 counsel. The parents may contact the clerk immediately to request  
32 counsel;

33 (4) Notice that this is a new case. Any attorney appointed previously will  
34 not represent the parents in this proceeding unless ordered by the court;

35 (5) Notice that the date, time and place of the hearing will be mailed by the  
36 clerk upon filing of the answer or 30 days from the date of service if no  
37 answer is filed;

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

40 (c) If a county department of social services, not otherwise a party petitioner, is  
41 served with a petition alleging that the parental rights of the parent should be terminated  
42 pursuant to G.S. 7A-289.32, the department shall file a written answer and shall be  
43 deemed a party to the proceeding."

1 Section 11. G.S. 7A-289.32 reads as rewritten:

2 **"§ 7A-289.32. Grounds for terminating parental rights.**

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

5 (1) Repealed by Session Laws 1979, c. 669, s. 2.

6 (2) The parent has abused or neglected the child. The child shall be deemed  
7 to be abused or neglected if the court finds the child to be an abused  
8 child within the meaning of G.S. 7A-517(1), or a neglected child within  
9 the meaning of G.S. 7A-517(21).

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

17 (3a) The burden in such proceedings shall be upon the petitioner to prove the  
18 facts justifying such termination by clear and convincing evidence.

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

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

31 (6) The father of a child born out of wedlock has not prior to the filing of a  
32 petition to terminate his parental rights:

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

39 b. Legitimated the child pursuant to provisions of G.S. 49-10, or  
40 filed a petition for this specific purpose; or

41 c. Legitimated the child by marriage to the mother of the child; or

42 d. Provided substantial financial support or consistent care with  
43 respect to the child and mother.

- 1 (7) That the parent is incapable of providing for the proper care and  
2 supervision of the child, such that the child is a dependent child within  
3 the meaning of G.S. 7A-517(13), and that there is a reasonable  
4 probability that such incapability will continue for the foreseeable  
5 future. Incapability under this subdivision may be the result of substance  
6 abuse, mental retardation, mental illness, organic brain syndrome, or  
7 any other similar cause or condition.
- 8 (8) The parent has willfully abandoned the child for at least six consecutive  
9 months immediately preceding the filing of the petition. ~~For the purpose  
10 of this subdivision, a child may be willfully abandoned by his or her natural  
11 father if the mother of the child had been willfully abandoned by and was  
12 living separate and apart from the father at the time of the child's birth,  
13 although the father may not have known of such birth; but in any event the  
14 child must be over the age of three months at the time of the filing of the  
15 petition.~~
- 16 (9) The parent has committed murder or voluntary manslaughter of another  
17 child of the parent or other child residing in the home; has aided,  
18 abetted, attempted, conspired, or solicited to commit murder or  
19 voluntary manslaughter of the child, another child of the parent, or other  
20 child residing in the home; or has committed a felony assault that results  
21 in serious bodily injury to the child, another child of the parent, or other  
22 child residing in the home.
- 23 (10) The parental rights of the parent with respect to another child of the  
24 parent have been terminated involuntarily by a court of competent  
25 jurisdiction and the parent lacks the ability or willingness to establish a  
26 safe home."

27 Section 12. G.S. 48-1-101 is amended by adding a new subdivision to read:

28 "**§ 48-1-101. Definitions.**

29 In this Chapter, the following definitions apply:

- 30 (1) 'Adoptee' means an individual who is adopted, is placed for adoption, or  
31 is the subject of a petition for adoption properly filed with the court.
- 32 (2) 'Adoption' means the creation by law of the relationship of parent and  
33 child between two individuals.
- 34 (3) 'Adult' means an individual who has attained 18 years of age, or if  
35 under the age of 18, is either married or has been emancipated under the  
36 applicable State law.
- 37 (3a) 'Adoption facilitator' means an individual or a nonprofit entity that  
38 assists biological parents in locating and evaluating prospective  
39 adoptive parents without charge.
- 40 (4) 'Agency' means a public or private association, corporation, institution,  
41 or other person or entity that is licensed or otherwise authorized by the  
42 law of the jurisdiction where it operates to place minors for adoption.  
43 'Agency' also means a county department of social services in this State.



- 1 (5) 'Child' means a son or daughter, whether by birth or adoption.
- 2 (5a) 'Criminal history' means a county, State, or federal criminal history of
- 3 conviction or a pending indictment of a crime, whether a misdemeanor
- 4 or a felony, that bears upon an individual's fitness to have responsibility
- 5 for the safety and well-being of children, including the following North
- 6 Carolina crimes contained in any of the following Articles of Chapter 14
- 7 of the General Statutes: Article 6, Homicide; Article 7A, Rape and
- 8 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and
- 9 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive
- 10 or Incendiary Device or Material; Article 26, Offenses Against Public
- 11 Morality and Decency; Article 27, Prostitution; Article 39, Protection of
- 12 Minors; Article 40, Protection of the Family; and Article 59, Public
- 13 Intoxication. Such crimes also include possession or sale of drugs in
- 14 violation of the North Carolina Controlled Substances Act, Article 5 of
- 15 Chapter 90 of the General Statutes, and alcohol-related offenses such as
- 16 sale to underage persons in violation of G.S. 18B-302 or driving while
- 17 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
- 18 addition to the North Carolina crimes listed in this subdivision, such
- 19 crimes also include similar crimes under federal law or under the laws
- 20 of other states.
- 21 (6) 'Department' means the North Carolina Department of Health and
- 22 Human Services.
- 23 (7) 'Division' means the Division of Social Services of the Department.
- 24 (8) 'Guardian' means an individual, other than a parent, appointed by a
- 25 clerk of court in North Carolina to exercise all of the powers conferred
- 26 by G.S. 35A-1241, including a standby guardian appointed under
- 27 Article 21 of Chapter 35A of the General Statutes whose authority has
- 28 actually commenced; and also means an individual, other than a parent,
- 29 appointed in another jurisdiction according to the law of that jurisdiction
- 30 who has the power to consent to adoption under the law of that
- 31 jurisdiction.
- 32 (9) 'Legal custody' of an individual means the general right to exercise
- 33 continuing care of and control over the individual as authorized by law,
- 34 with or without a court order, and:
- 35 a. Includes the right and the duty to protect, care for, educate, and
- 36 discipline the individual;
- 37 b. Includes the right and the duty to provide the individual with
- 38 food, shelter, clothing, and medical care; and
- 39 c. May include the right to have physical custody of the individual.
- 40 (10) 'Minor' means an individual under 18 years of age who is not an adult.
- 41 (11) 'Party' means a petitioner, adoptee, or any person whose consent to an
- 42 adoption is necessary under this Chapter but has not been obtained.

- 1 (12) 'Physical custody' means the physical care of and control over an  
2 individual.
- 3 (13) 'Placement' means transfer of physical custody of a minor to the  
4 selected prospective adoptive parent. Placement may be either:  
5 a. Direct placement by a parent or the guardian of the minor; or  
6 b. Placement by an agency.
- 7 (14) 'Preplacement assessment' means a document, whether prepared before  
8 or after placement, that contains the information required by G.S. 48-3-  
9 303 and any rules adopted by the Social Services Commission.
- 10 (15) 'Relinquishment' means the voluntary surrender of a minor to an agency  
11 for the purpose of adoption.
- 12 (16) 'Report to the court' means a document prepared in accordance with  
13 G.S. 48-2-501, et seq.
- 14 (17) 'State' means a state as defined in G.S. 12-3(11).
- 15 (18) 'Stepparent' means an individual who is the spouse of a parent of a  
16 child, but who is not a legal parent of the child."

17 Section 13. G.S. 48-3-203 reads as rewritten:

18 **"§ 48-3-203. Agency placement adoption.**

19 (a) An agency may acquire legal and physical custody of a minor for purposes of  
20 adoptive placement only by means of a relinquishment pursuant to Part 7 of this Article  
21 or by a court order terminating the rights and duties of a parent or guardian of the minor.

22 (b) An agency shall give any individual upon request a written statement of the  
23 services it provides and of its procedure for selecting a prospective adoptive parent for a  
24 minor, including the role of the minor's parent or guardian in the selection process. This  
25 statement must include a schedule of any fee or expenses charged or required to be paid  
26 by the agency and a summary of the provisions of this Chapter that pertain to the  
27 requirements and consequences of a relinquishment and to the selection of a prospective  
28 adoptive parent.

29 (c) An agency may notify the parent when a placement has occurred and when an  
30 adoption decree is issued.

31 (d) The selection of a prospective adoptive parent for a minor shall be made by the  
32 agency on the basis of a preplacement assessment. The selection may not be delegated,  
33 but may be based on criteria requested by a parent who relinquishes the child to the  
34 agency.

35 (d1) A minor who is in the custody or placement responsibility of a county  
36 department of social services shall not be placed with a selected prospective adoptive  
37 parent prior to the completion of an investigation of the individual's criminal history  
38 pursuant to G.S. 48-3-309 or G.S. 131D-10.3A and, based on the criminal history, a  
39 determination as to the individual's fitness to have responsibility for the safety and well-  
40 being of children.

41 (e) In addition to the authority granted in G.S. 131D-10.5, the Social Services  
42 Commission may adopt rules for placements by agencies consistent with the purposes of  
43 this Chapter."

1 Section 14. G.S. 48-3-303 reads as rewritten:

2 **"§ 48-3-303. Content and timing of preplacement assessment.**

3 (a) A preplacement assessment shall be completed within 90 days after a request  
4 has been accepted.

5 (b) The preplacement assessment must be based on at least one personal interview  
6 with each individual being assessed in the individual's residence and any report received  
7 pursuant to subsection (c) of this section.

8 (c) The preplacement assessment must, after a reasonable investigation, report on  
9 the following about the individual being assessed:

- 10 (1) Age and date of birth, nationality, race, or ethnicity, and any religious  
11 preference;
- 12 (2) Marital and family status and history, including the presence of any  
13 children born to or adopted by the individual and any other children in  
14 the household;
- 15 (3) Physical and mental health, including any addiction to alcohol or drugs;
- 16 (4) Educational and employment history and any special skills;
- 17 (5) Property and income, and current financial information provided by the  
18 individual;
- 19 (6) Reason for wanting to adopt;
- 20 (7) Any previous request for an assessment or involvement in an adoptive  
21 placement and the outcome of the assessment or placement;
- 22 (8) Whether the individual has ever been a respondent in a domestic  
23 violence proceeding or a proceeding concerning a minor who was  
24 allegedly abused, dependent, neglected, abandoned, or delinquent, and  
25 the outcome of the proceeding;
- 26 (9) Whether the individual has ever been convicted of a crime other than a  
27 minor traffic violation;
- 28 (10) Whether the individual has located a parent interested in placing a child  
29 with the individual for adoption and a brief, nonidentifying description  
30 of the parent and the child; and
- 31 (11) Any other fact or circumstance that may be relevant to a determination  
32 of the individual's suitability to be an adoptive parent, including the  
33 quality of the environment in the home and the functioning of any  
34 children in the household.

35 When any of the above is not reasonably available, the preplacement assessment shall  
36 state why it is unavailable.

37 (d) The agency shall conduct an investigation for any criminal record as permitted  
38 by law. If a prospective adoptive parent is seeking to adopt a minor who is in the custody  
39 or placement responsibility of a county department of social services, a county  
40 department of social services shall have the individual's criminal history investigated  
41 pursuant to G.S. 48-3-309, and based on the criminal history, make a determination  
42 pursuant to subsection (e) of this section as to the individual's fitness to have  
43 responsibility for the safety and well-being of children.

1 (e) In the preplacement assessment, the agency shall review the information  
2 obtained pursuant to subsections (b), (c), and (d) of this section and evaluate the  
3 individual's strengths and weaknesses to be an adoptive parent. The agency shall then  
4 determine whether the individual is suitable to be an adoptive parent.

5 (f) If the agency determines that the individual is suitable to be an adoptive parent,  
6 the preplacement assessment shall include specific factors which support that  
7 determination.

8 (g) If the agency determines that the individual is not suitable to be an adoptive  
9 parent, the replacement assessment shall state the specific concerns which support that  
10 determination. A specific concern is one that reasonably indicates that placement of any  
11 minor, or a particular minor, in the home of the individual would pose a significant risk  
12 of harm to the well-being of the minor.

13 (h) In addition to the information and finding required by subsections (c) through  
14 (g) of this section, the preplacement assessment must contain a list of the sources of  
15 information on which it is based.

16 (i) The Social Services Commission shall have authority to establish by rule  
17 additional standards for preplacement assessments."

18 Section 15. Effective January 1, 1999, Article 3 of Chapter 48 of the General  
19 Statutes is amended by adding the following new section to read:

20 **"§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive**  
21 **parents seeking to adopt a minor who is in the custody or placement**  
22 **responsibility of a county department of social services.**

23 (a) The department shall ensure that the criminal histories of all prospective  
24 adoptive parents seeking to adopt a minor who is in the custody or placement  
25 responsibility of a county department of social services are checked prior to placement  
26 and, based on the criminal history, a determination is made as to the individual's fitness to  
27 have responsibility for the safety and well-being of children. The department shall ensure  
28 that all prospective adoptive parents seeking to adopt a minor who is in the custody or  
29 placement responsibility of a county department of social services are checked prior to  
30 placement for county, state, and federal criminal histories.

31 (b) A county department of social services may issue an unfavorable preplacement  
32 assessment to a prospective adoptive parent if the county department of social services  
33 determines pursuant to G.S. 48-3-303(e) that the individual is unfit to have responsibility  
34 for the safety and well-being of children based on the criminal history.

35 (c) The Department of Justice shall provide to the Department of Health and  
36 Human Services the criminal history of such a prospective adoptive parent obtained from  
37 the State and National Repositories of Criminal Histories as requested by the Department.  
38 The Department shall provide to the Department of Justice, along with the request, the  
39 fingerprints of the prospective adoptive parent to be checked, any additional information  
40 required by the Department of Justice, and a form consenting to the check of the criminal  
41 record and to the use of fingerprints and other identifying information required by the  
42 State or National Repositories signed by the individual to be checked. The fingerprints of  
43 the prospective adoptive parent shall be forwarded to the State Bureau of Investigation

1 for a search of the State's criminal history record file, and the State Bureau of  
2 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for  
3 a national criminal history record check.

4 (d) At the time of the request for a preplacement assessment or at a subsequent  
5 time prior to placement, a prospective adoptive parent whose criminal history is to be  
6 checked shall be furnished with a statement substantially similar to the following:

7 **‘NOTICE**

8 MANDATORY CRIMINAL HISTORY CHECK: NORTH CAROLINA LAW  
9 REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED  
10 PRIOR TO PLACEMENT ON PROSPECTIVE ADOPTIVE PARENTS  
11 SEEKING TO ADOPT A MINOR WHO IS IN THE CUSTODY OR  
12 PLACEMENT RESPONSIBILITY OF A COUNTY DEPARTMENT OF  
13 SOCIAL SERVICES.

14  
15 ‘Criminal history’ means a county, state, or federal criminal history of conviction  
16 or a pending indictment of a crime, whether a misdemeanor or a felony, that bears  
17 upon an individual's fitness to have responsibility for the safety and well-being of  
18 children, including the following North Carolina crimes contained in any of the  
19 following Articles of Chapter 14 of the General Statutes: Article 6, Homicide;  
20 Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10,  
21 Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of  
22 Explosive or Incendiary Device or Material; Article 26, Offenses Against Public  
23 Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors;  
24 Article 40, Protection of the Family; and Article 59, Public Intoxication; violation  
25 of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the  
26 General Statutes, and alcohol-related offenses such as sale to underage persons in  
27 violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1  
28 through G.S. 20-138.5; or similar crimes under federal law or under the laws of  
29 other states. Your fingerprints will be used to check the criminal history records  
30 of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation  
31 (FBI).

32  
33 If it is determined, based on your criminal history, that you are unfit to have  
34 responsibility for the safety and well-being of children, you shall have the  
35 opportunity to complete, or challenge the accuracy of, the information contained  
36 in the SBI or FBI identification records.

37  
38 If you are denied a favorable preplacement assessment by a county department of  
39 social services as a result of the criminal history check, you may request a review  
40 of the assessment pursuant to G.S. 48-3-308(a).

41

1       Any prospective adoptive parent who intentionally falsifies any information  
2       required to be furnished to conduct the criminal history is guilty of a Class 2  
3       misdemeanor.'

4  
5       Refusal to consent to a criminal history check is grounds for the issuance by a county  
6       department of social services of an unfavorable preplacement assessment. Any  
7       prospective adoptive parent who intentionally falsifies any information required to be  
8       furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

9       (e) The department shall notify the prospective adoptive parent's supervising  
10       county department of social services of the results of the criminal history check in  
11       accordance with the federal and State law regulating the dissemination of the contents of  
12       the criminal history file. The department shall not release nor disclose any portion of the  
13       prospective adoptive parent's criminal history to the prospective adoptive parent. The  
14       department shall also ensure that the prospective adoptive parent is notified of the  
15       prospective adoptive parent's right to review the criminal history information, the  
16       procedure for completing or challenging the accuracy of the criminal history, and the  
17       prospective adoptive parent's right to contest the preplacement assessment of the county  
18       department of social services.

19       A prospective adoptive parent who disagrees with the preplacement assessment of the  
20       county department of social services may request a review of the assessment pursuant to  
21       G.S. 48-3-308(a).

22       (f) All the information that the department receives through the checking of the  
23       criminal history is privileged information and is not a public record but is for the  
24       exclusive use of the department and those persons authorized under this section to receive  
25       the information. The department may destroy the information after it is used for the  
26       purposes authorized by this section after one calendar year.

27       (g) There is no liability for negligence on the part of a State or local agency, or the  
28       employees of a State or local agency, arising from any action taken or omission by any of  
29       them in carrying out the provisions of this section. The immunity established by this  
30       subsection shall not extend to gross negligence, wanton conduct, or intentional  
31       wrongdoing that would otherwise be actionable. The immunity established by this  
32       subsection shall be deemed to have been waived to the extent of indemnification by  
33       insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and  
34       to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in  
35       Article 31 of Chapter 143 of the General Statutes.

36       (h) The Department of Justice shall perform the State and national criminal history  
37       checks on prospective adoptive parents seeking to adopt a minor in the custody or  
38       placement responsibility of a county department of social services and shall charge the  
39       Department of Health and Human Services a reasonable fee only for conducting the  
40       checks of the national criminal history records authorized by this section. The Division  
41       of Social Services, Department of Health and Human Services, shall bear the costs of  
42       implementing this section."

1 Section 16. Article 4 of Chapter 114 of the General Statutes is amended by  
2 adding the following new section to read:

3 **"§ 114-19.7. Criminal record checks prior to placement of prospective adoptive**  
4 **parents seeking to adopt a minor who is in the custody or placement**  
5 **responsibility of a county department of social services.**

6 The Department of Justice may provide to the Division of Social Services,  
7 Department of Health and Human Services, the criminal history from the State and  
8 National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The  
9 Division shall provide to the Department of Justice, along with the request, the  
10 fingerprints of the prospective adoptive parent seeking to adopt a minor who is in the  
11 custody or placement responsibility of a county department of social services, any  
12 additional information required by the Department of Justice, and a form consenting to  
13 the check of the criminal record and to the use of fingerprints and other identifying  
14 information required by the State or National Repositories signed by the individual to be  
15 checked. The fingerprints of the prospective adoptive parent shall be forwarded to the  
16 State Bureau of Investigation for a search of the State's criminal history record file, and  
17 the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau  
18 of Investigation for a national criminal history record check. The Division shall keep all  
19 information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The  
20 Department of Justice shall charge a reasonable fee only for conducting the checks of the  
21 national criminal history records authorized by this section."

22 Section 17. The Legislative Research Commission may study changes  
23 proposed to the juvenile justice system contained in House Bill 1561 and Senate Bill  
24 1513, 1997 General Assembly. The study may include other issues relevant to child  
25 abuse, neglect, and dependency cases. The Commission shall report its findings,  
26 recommendations, and any legislative proposals to the 1999 General Assembly.

27  
28 **PART II. ADOPTION AND SAFE FAMILIES ACT - EFFECTIVE JULY 1, 1999.**

29 Section 18. G.S. 7B-101, as rewritten and recodified by enacted Senate Bill  
30 1260, 1997 General Assembly, reads as rewritten:

31 **"§ 7B-101. Definitions.**

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

- 34 (1) Abused juveniles. – Any juvenile less than 18 years of age whose  
35 parent, guardian, custodian, or caretaker:
- 36 a. Inflicts or allows to be inflicted upon the juvenile a serious  
37 physical injury by other than accidental means;
  - 38 b. Creates or allows to be created a substantial risk of serious  
39 physical injury to the juvenile by other than accidental means;
  - 40 c. Uses or allows to be used upon the juvenile cruel or grossly  
41 inappropriate procedures or cruel or grossly inappropriate  
42 devices to modify behavior;

- 1           d.       Commits, permits, or encourages the commission of a violation  
2           of the following laws by, with, or upon the juvenile: first-degree  
3           rape, as provided in G.S. 14-27.2; second degree rape as  
4           provided in G.S. 14-27.3; first-degree sexual offense, as provided  
5           in G.S. 14-27.4; second degree sexual offense, as provided in  
6           G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-  
7           27.7; crime against nature, as provided in G.S. 14-177; incest, as  
8           provided in G.S. 14-178 and G.S. 14-179; preparation of obscene  
9           photographs, slides, or motion pictures of the juvenile, as  
10          provided in G.S. 14-190.5; employing or permitting the juvenile  
11          to assist in a violation of the obscenity laws as provided in G.S.  
12          14-190.6; dissemination of obscene material to the juvenile as  
13          provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or  
14          disseminating material harmful to the juvenile as provided in  
15          G.S. 14-190.14 and G.S. 14-190.15; first and second degree  
16          sexual exploitation of the juvenile as provided in G.S. 14-190.16  
17          and G.S. 14-190.17; promoting the prostitution of the juvenile as  
18          provided in G.S. 14-190.18; and taking indecent liberties with the  
19          juvenile, as provided in G.S. 14-202.1, regardless of the age of  
20          the parties;
- 21          e.       Creates or allows to be created serious emotional damage to the  
22          juvenile. Serious emotional damage is evidenced by a juvenile's  
23          severe anxiety, depression, withdrawal, or aggressive behavior  
24          toward himself or others; or
- 25          f.       Encourages, directs, or approves of delinquent acts involving  
26          moral turpitude committed by the juvenile.
- 27       (1a)   Aggravated circumstances. – Any circumstance attending to the  
28       commission of an act of abuse or neglect which increases its enormity  
29       or adds to its injurious consequences, including, but not limited to,  
30       abandonment, torture, chronic abuse, or sexual abuse.
- 31       (2)   Caretaker. – Any person other than a parent, guardian, or custodian who  
32       has responsibility for the health and welfare of a juvenile in a residential  
33       setting. A person responsible for a juvenile's health and welfare means a  
34       stepparent, foster parent, an adult member of the juvenile's household,  
35       an adult relative entrusted with the juvenile's care, or any person such as  
36       a house parent or cottage parent who has primary responsibility for  
37       supervising a juvenile's health and welfare in a residential child care  
38       facility or residential educational facility. 'Caretaker' also means any  
39       person who has the responsibility for the care of a juvenile in a child  
40       care facility as defined in Article 7 of Chapter 110 of the General  
41       Statutes and includes any person who has the approval of the care  
42       provider to assume responsibility for the juveniles under the care of the  
43       care provider. Nothing in this subdivision shall be construed to impose a



- 1 legal duty of support under Chapter 50 or Chapter 110 of the General  
2 Statutes. The duty imposed upon a caretaker as defined in this  
3 subdivision shall be for the purpose of this Subchapter only.
- 4 (3) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy  
5 clerk.
- 6 (4) Community-based program. – A program providing nonresidential or  
7 residential treatment to a juvenile in the community where the juvenile's  
8 family lives. A community-based program may include specialized  
9 foster care, family counseling, shelter care, and other appropriate  
10 treatment.
- 11 (5) Court. – The district court division of the General Court of Justice.
- 12 (5a) Court of competent jurisdiction. – A court having the power and  
13 authority of law to act at the time of acting over the subject matter of the  
14 cause.
- 15 (6) Custodian. – The person or agency that has been awarded legal custody  
16 of a juvenile by a court or a person, other than parents or legal guardian,  
17 who has assumed the status and obligation of a parent without being  
18 awarded the legal custody of a juvenile by a court.
- 19 (7) Dependent juvenile. – A juvenile in need of assistance or placement  
20 because the juvenile has no parent, guardian, or custodian responsible  
21 for the juvenile's care or supervision or whose parent, guardian, or  
22 custodian is unable to provide for the care or supervision and lacks an  
23 appropriate alternative child care arrangement.
- 24 (8) Director. – The director of the county department of social services in  
25 the county in which the juvenile resides or is found, or the director's  
26 representative as authorized in G.S. 108A-14.
- 27 (9) District. – Any district court district as established by G.S. 7A-133.
- 28 (10) Judge. – Any district court judge.
- 29 (11) Judicial district. – Any district court district as established by G.S. 7A-  
30 133.
- 31 (12) Juvenile. – A person who has not reached the person's eighteenth  
32 birthday and is not married, emancipated, or a member of the armed  
33 forces of the United States.
- 34 (13) Neglected juvenile. – A juvenile who does not receive proper care,  
35 supervision, or discipline from the juvenile's parent, guardian,  
36 custodian, or caretaker; or who has been abandoned; or who is not  
37 provided necessary medical care; or who is not provided necessary  
38 remedial care; or who lives in an environment injurious to the juvenile's  
39 welfare; or who has been placed for care or adoption in violation of law.  
40 In determining whether a juvenile is a neglected juvenile, it is relevant  
41 whether that juvenile lives in a home where another juvenile has died as  
42 a result of suspected abuse or neglect or lives in a home where another

1           juvenile has been subjected to abuse or neglect by an adult who  
2           regularly lives in the home.

3           (14) Petitioner. – The individual who initiates court action, whether by the  
4           filing of a petition or of a motion for review alleging the matter for  
5           adjudication.

6           (15) Prosecutor. – The district attorney or assistant district attorney assigned  
7           by the district attorney to juvenile proceedings.

8           (16) Reasonable efforts. – The diligent use of preventive or reunification  
9           services by a department of social services when a juvenile's remaining  
10          at home or returning home is consistent with achieving a safe,  
11          permanent home for the juvenile within a reasonable period of time. If a  
12          court of competent jurisdiction determines that the juvenile is not to be  
13          returned home, then reasonable efforts means the diligent and timely use  
14          of permanency planning services by a department of social services to  
15          develop and implement a permanent plan for the juvenile.

16          (17) Safe home. – A home in which the juvenile is not at substantial risk of  
17          physical or emotional abuse or neglect.

18          (18) Shelter care. – The temporary care of a juvenile in a physically  
19          unrestricting facility pending court disposition.

20          The singular includes the plural, the masculine singular includes the feminine singular  
21          and masculine and feminine plural unless otherwise specified."

22          Section 19. G.S. 7B-302, as rewritten and recodified by enacted Senate Bill  
23          1260, 1997 General Assembly, reads as rewritten:

24          "**§ 7B-302. Investigation by director; access to confidential information; notification**  
25          **of person making the report.**

26          When a report of abuse, neglect, or dependency is received, the director of the  
27          department of social services shall make a prompt and thorough investigation in order to  
28          ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to  
29          the juvenile, in order to determine whether protective services should be provided or the  
30          complaint filed as a petition. When the report alleges abuse, the director shall  
31          immediately, but no later than 24 hours after receipt of the report, initiate the  
32          investigation. When the report alleges neglect or dependency, the director shall initiate  
33          the investigation within 72 hours following receipt of the report. The investigation and  
34          evaluation shall include a visit to the place where the juvenile resides. All information  
35          received by the department of social services, including the identity of the reporter, shall  
36          be held in strictest confidence by the department.

37          When a report of a juvenile's death as a result of suspected maltreatment or a report of  
38          suspected abuse, neglect, or dependency of a juvenile is received, the director of the  
39          department of social services shall immediately ascertain if other juveniles remain in the  
40          home, and, if so, initiate an investigation in order to determine whether they require  
41          protective services or whether immediate removal of the juveniles from the home is  
42          necessary for their protection.

1 If the investigation indicates that abuse, neglect, or dependency has occurred, the  
2 director shall decide whether immediate removal of the juvenile or any other juveniles in  
3 the home is necessary for their protection. If immediate removal does not seem  
4 necessary, the director shall immediately provide or arrange for protective services. If the  
5 parent, guardian, custodian, or caretaker refuses to accept the protective services provided  
6 or arranged by the director, the director shall sign a complaint seeking to invoke the  
7 jurisdiction of the court for the protection of the juvenile or juveniles.

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

13 In performing any duties related to the investigation of the complaint or the provision  
14 or arrangement for protective services, the director may consult with any public or private  
15 agencies or individuals, including the available State or local law enforcement officers  
16 who shall assist in the investigation and evaluation of the seriousness of any report of  
17 abuse, neglect, or dependency when requested by the director. The director or the  
18 director's representative may make a written demand for any information or reports,  
19 whether or not confidential, that may in the director's opinion be relevant to the  
20 investigation of or the provision for protective services. Upon the director's or the  
21 director's representative's request and unless protected by the attorney-client privilege,  
22 any public or private agency or individual shall provide access to and copies of this  
23 confidential information and these records to the extent permitted by federal law and  
24 regulations. If a custodian of criminal investigative information or records believes that  
25 release of the information will jeopardize the right of the State to prosecute a defendant  
26 or the right of a defendant to receive a fair trial or will undermine an ongoing or future  
27 investigation, it may seek an order from a court of competent jurisdiction to prevent  
28 disclosure of the information. In such an action, the custodian of the records shall have  
29 the burden of showing by a preponderance of the evidence that disclosure of the  
30 information in question will jeopardize the right of the State to prosecute a defendant or  
31 the right of a defendant to receive a fair trial or will undermine an ongoing or future  
32 investigation. Actions brought pursuant to this paragraph shall be set down for immediate  
33 hearing, and subsequent proceedings in the actions shall be accorded priority by the trial  
34 and appellate courts.

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

39 Within five working days after completion of the protective services investigation, the  
40 director shall give subsequent written notice to the person making the report, unless  
41 requested by that person not to give notice, as to whether there is a finding of abuse,  
42 neglect, or dependency, whether the county department of social services is taking action  
43 to protect the juvenile, and what action it is taking, including whether or not a petition

1 was filed. The person making the report shall be informed of procedures necessary to  
2 request a review by the prosecutor of the director's decision not to file a petition. A  
3 request for review by the prosecutor shall be made within five working days of receipt of  
4 the second notification. The second notification shall include notice that, if the person  
5 making the report is not satisfied with the director's decision, the person may request  
6 review of the decision by the prosecutor within five working days of receipt. The person  
7 making the report may waive the person's right to this notification, and no notification is  
8 required if the person making the report does not identify himself to the director."

9 Section 20. G.S. 7B-505, as rewritten and recodified by enacted Senate Bill  
10 1260, 1997 General Assembly, reads as rewritten:

11 **"§ 7B-505. Place of nonsecure custody.**

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

- 15 (1) A licensed foster home or a home otherwise authorized by law to  
16 provide such care; or
- 17 (2) A facility operated by the department of social services; or
- 18 (3) Any other home or ~~facility~~ facility, including a relative's home approved  
19 by the court and designated in the order.

20 In placing a juvenile in nonsecure custody under this section, the court shall first  
21 consider whether a relative of the juvenile is willing and able to provide proper care and  
22 supervision of the juvenile in a safe home. If the court finds that the relative is willing  
23 and able to provide proper care and supervision in a safe home, then the court shall order  
24 placement of the juvenile with the ~~relative~~ relative unless the court finds that placement  
25 with the relative would be contrary to the best interests of the juvenile. In placing a  
26 juvenile in nonsecure custody under this section, the court shall consider the Indian Child  
27 Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the  
28 Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108  
29 Stat. 4056, as amended, as they may apply. ~~Prior to placement~~ Placement of a juvenile

30 with a relative outside of this ~~State~~ State must be in accordance with the  
31 Interstate Compact on the Placement of Children, Article 38 of this Chapter."

32 Section 21. G.S. 7B-506, as rewritten and recodified by enacted Senate Bill  
33 1260, 1997 General Assembly, reads as rewritten:

34 **"§ 7B-506. Hearing to determine need for continued nonsecure custody.**

35 (a) No juvenile shall be held under a nonsecure custody order for more than seven  
36 calendar days without a hearing on the merits or a hearing to determine the need for  
37 continued custody. A hearing on nonsecure custody conducted under this subsection may  
38 be continued for up to 10 business days with the consent of the juvenile's parent,  
39 guardian, custodian, or caretaker and, if appointed, the juvenile's guardian ad litem. In  
40 addition, the court may require the consent of additional parties or may schedule the  
41 hearing on custody despite a party's consent to a continuance. In every case in which an  
42 order has been entered by an official exercising authority delegated pursuant to G.S. 7B-  
43 502, a hearing to determine the need for continued custody shall be conducted on the day

1 of the next regularly scheduled session of district court in the city or county where the  
2 order was entered if such session precedes the expiration of the applicable time period set  
3 forth in this subsection: Provided, that if such session does not precede the expiration of  
4 the time period, the hearing may be conducted at another regularly scheduled session of  
5 district court in the district where the order was entered.

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

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

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

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

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

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

30 ~~(g) Any order authorizing the continued custody of a juvenile shall include~~  
31 ~~findings as to whether reasonable efforts have been made to prevent or eliminate the need~~  
32 ~~for placement of the juvenile in custody and may provide for services or other efforts~~  
33 ~~aimed at returning the juvenile promptly to a safe home. A finding that reasonable efforts~~  
34 ~~have not been made shall not preclude the entry of an order authorizing continued~~  
35 ~~eustody when the court finds that continued custody is necessary for the protection of the~~  
36 ~~juvenile. Where efforts to prevent the need for the juvenile's placement were precluded~~  
37 ~~by an immediate threat of harm to the juvenile, the court may find that the placement of~~  
38 ~~the juvenile in the absence of such efforts was reasonable. If the court finds through~~  
39 ~~written findings of fact that efforts to eliminate the need for placement of the juvenile in~~  
40 ~~custody clearly would be futile or would be inconsistent with the juvenile's safety and~~  
41 ~~need for a safe, permanent home within a reasonable period of time, then the court shall~~  
42 ~~specify in its order that reunification efforts are not required or order that reunification~~  
43 ~~efforts cease.~~

- 1 (h) At each hearing to determine the need for continued custody, the court shall:
- 2 (1) Inquire as to the identity and location of any missing parent. The court
- 3 shall include findings as to the efforts undertaken to locate the missing
- 4 parent and to serve that parent. The order may provide for specific
- 5 efforts aimed at determining the identity and location of any missing
- 6 parent;
- 7 (2) Inquire as to whether a relative of the juvenile is willing and able to
- 8 provide proper care and supervision of the juvenile in a safe home. If
- 9 the court finds that the relative is willing and able to provide proper care
- 10 and supervision in a safe home, then the court shall order temporary
- 11 placement of the juvenile with the ~~relative~~-relative unless the court finds
- 12 that placement with the relative would be contrary to the best interests
- 13 of the juvenile. In placing a juvenile in nonsecure custody under this
- 14 section, the court shall consider the Indian Child Welfare Act, Pub. L.
- 15 No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M.
- 16 Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382,
- 17 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile
- 18 with a relative outside of this State must be in accordance with the
- 19 Interstate Compact on the Placement of Children set forth in Article 38
- 20 of this Chapter; and
- 21 (3) Inquire as to whether there are other juveniles remaining in the home
- 22 from which the juvenile was removed and, if there are, inquire as to the
- 23 specific findings of the investigation conducted under G.S. 7B-302 and
- 24 any actions taken or services provided by the director for the protection
- 25 of the other juveniles."

26 Section 21.1. If Senate Bill 1260, 1997 General Assembly, is enacted into law

27 by the 1997 General Assembly, then G.S. 7A-577.1, as enacted in Part I of this act is

28 recodified as G.S. 7B-506.1 and reads as rewritten:

29 **"§ 7B-506.1. Reasonable efforts.**

30 (a) An order placing or continuing the placement of a juvenile in the custody or

31 placement responsibility of a county department of social services, whether an order for

32 continued nonsecure custody, a dispositional order, or a review order:

- 33 (1) Shall contain a finding that the juvenile's continuation in or return to the
- 34 juvenile's own home would be contrary to the juvenile's best interest;
- 35 (2) Shall contain findings as to whether a county department of social
- 36 services has made reasonable efforts to prevent or eliminate the need for
- 37 placement of the juvenile, unless the court has previously determined
- 38 under subsection (b) of this section that such efforts are not required or
- 39 shall cease;
- 40 (3) Shall contain findings as to whether a county department of social
- 41 services should continue to make reasonable efforts to prevent or
- 42 eliminate the need for placement of the juvenile, unless the court has

1           previously determined or determines under subsection (b) of this section  
2           that such efforts are not required or shall cease;

3           (4)    Shall specify that the juvenile's placement and care are the responsibility  
4           of the county department of social services and that the agency is to  
5           provide or arrange for the foster care or other placement of the juvenile;  
6           and

7           (5)    May provide for services or other efforts aimed at returning the juvenile  
8           to a safe home or at achieving another permanent plan for the juvenile.

9    A finding that reasonable efforts have not been made by a county department of social  
10   services shall not preclude the entry of an order authorizing the juvenile's placement  
11   when the court finds that placement is necessary for the protection of the juvenile. Where  
12   efforts to prevent the need for the juvenile's placement were precluded by an immediate  
13   threat of harm to the juvenile, the court may find that the placement of the juvenile in the  
14   absence of such efforts was reasonable.

15   (b)    In any order placing a juvenile in the custody or placement responsibility of a  
16   county department of social services, whether an order for continued nonsecure custody,  
17   a dispositional order, or a review order, the court may direct that reasonable efforts to  
18   eliminate the need for placement of the juvenile shall not be required or shall cease if the  
19   court makes written findings of fact that:

20           (1)    Such efforts clearly would be futile or would be inconsistent with the  
21           juvenile's health, safety, and need for a safe, permanent home within a  
22           reasonable period of time;

23           (2)    A court of competent jurisdiction has determined that the parent has  
24           subjected the child to aggravated circumstances as defined in G.S. ~~7A-~~  
25           ~~517(3a)~~; 7B-101;

26           (3)    A court of competent jurisdiction has terminated involuntarily the  
27           parental rights of the parent to another child of the parent; or

28           (4)    A court of competent jurisdiction has determined that: the parent has  
29           committed murder or voluntary manslaughter of another child of the  
30           parent; has aided, abetted, attempted, conspired, or solicited to commit  
31           murder or voluntarily manslaughter of the child or another child of the  
32           parent; or has committed a felony assault resulting in serious bodily  
33           injury to the child or another child of the parent.

34   (c)    At any hearing at which the court finds that reasonable efforts to eliminate the  
35   need for the juvenile's placement are not required or shall cease, the court shall direct that  
36   a permanency planning hearing as required by G.S. ~~7A-657.1~~ 7B-906.1 be held within 30  
37   calendar days after the date of the hearing and, if practicable, shall set the date and time  
38   for the permanency planning hearing.

39   (d)    In determining reasonable efforts to be made with respect to a juvenile and in  
40   making such reasonable efforts, the juvenile's health and safety shall be the paramount  
41   concern. Reasonable efforts to preserve or reunify families may be made concurrently  
42   with efforts to plan for the juvenile's adoption, to place the juvenile with a legal guardian,  
43   or to place the juvenile in another permanent arrangement."

1 Section 22. G.S. 7B-801, as rewritten and recodified by enacted Senate Bill  
2 1260, 1997 General Assembly, reads as rewritten:

3 **"§ 7B-801. Hearing.**

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

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

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

20 (c) The adjudicatory hearing shall be held in the district at such time and place as  
21 the chief district court judge shall designate, but no later than 60 days from the filing of  
22 the petition unless the judge pursuant to G.S. 7B-803 orders that it be held at a later time.

23 Section 23. G.S. 7B-903, as rewritten and recodified by enacted Senate Bill  
24 1260, 1997 General Assembly, reads as rewritten:

25 **"§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

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

- 29 (1) The court may dismiss the case or continue the case in order to allow  
30 the parent, guardian, custodian, caretaker or others to take appropriate  
31 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). If a juvenile is removed  
25 from the home and placed in custody or placement responsibility  
26 of a county department of social services, the director shall not  
27 allow unsupervised visitation with, or return physical custody of  
28 the juvenile to, the parent, guardian, custodian, or caretaker  
29 without a hearing at which the court finds that the juvenile will  
30 receive proper care and supervision in a safe home.

31 In placing a juvenile in out-of-home care under this section,  
32 the court shall first consider whether a relative of the juvenile is  
33 willing and able to provide proper care and supervision of the  
34 juvenile in a safe home. If the court finds that the relative is  
35 willing and able to provide proper care and supervision in a safe  
36 home, then the court shall order placement of the juvenile with  
37 the relative unless the court finds that the placement is contrary  
38 to the best interests of the juvenile. Placement of a juvenile with  
39 a relative outside of this State must be in accordance with the  
40 Interstate Compact on the Placement of Children.

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

- 1           a.     Upon completion of the examination, the court shall conduct a  
2           hearing to determine whether the juvenile is in need of medical,  
3           surgical, psychiatric, psychological, or other treatment and who  
4           should pay the cost of the treatment. The county manager, or  
5           such person who shall be designated by the chairman of the  
6           county commissioners, of the juvenile's residence shall be  
7           notified of the hearing, and allowed to be heard. If the court finds  
8           the juvenile to be in need of medical, surgical, psychiatric,  
9           psychological, or other treatment, the court shall permit the  
10          parent or other responsible persons to arrange for treatment. If  
11          the parent declines or is unable to make necessary arrangements,  
12          the court may order the needed treatment, surgery, or care, and  
13          the court may order the parent to pay the cost of the care pursuant  
14          to G.S. 7B-904. If the court finds the parent is unable to pay the  
15          cost of treatment, the court shall order the county to arrange for  
16          treatment of the juvenile and to pay for the cost of the treatment.  
17          The county department of social services shall recommend the  
18          facility that will provide the juvenile with treatment.
- 19          b.     If the court believes, or if there is evidence presented to the effect  
20          that the juvenile is mentally ill or is developmentally disabled,  
21          the court shall refer the juvenile to the area mental health,  
22          developmental disabilities, and substance abuse services director  
23          for appropriate action. A juvenile shall not be committed directly  
24          to a State hospital or mental retardation center; and orders  
25          purporting to commit a juvenile directly to a State hospital or  
26          mental retardation center except for an examination to determine  
27          capacity to proceed shall be void and of no effect. The area  
28          mental health, developmental disabilities, and substance abuse  
29          director shall be responsible for arranging an interdisciplinary  
30          evaluation of the juvenile and mobilizing resources to meet the  
31          juvenile's needs. If institutionalization is determined to be the  
32          best service for the juvenile, admission shall be with the  
33          voluntary consent of the parent or guardian. If the parent,  
34          guardian, custodian, or caretaker refuses to consent to a mental  
35          hospital or retardation center admission after such  
36          institutionalization is recommended by the area mental health,  
37          developmental disabilities, and substance abuse director, the  
38          signature and consent of the court may be substituted for that  
39          purpose. In all cases in which a regional mental hospital refuses  
40          admission to a juvenile referred for admission by a court and an  
41          area mental health, developmental disabilities, and substance  
42          abuse director or discharges a juvenile previously admitted on  
43          court referral prior to completion of treatment, the hospital shall

1 submit to the court a written report setting out the reasons for  
2 denial of admission or discharge and setting out the juvenile's  
3 diagnosis, indications of mental illness, indications of need for  
4 treatment, and a statement as to the location of any facility  
5 known to have a treatment program for the juvenile in question."

6 Section 24. G.S. 7B-905, as rewritten and recodified by enacted Senate Bill  
7 1260, 1997 General Assembly, reads as rewritten:

8 **"§ 7B-905. Dispositional order.**

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

14 (b) A dispositional order under which a juvenile is removed from the custody of a  
15 parent, guardian, custodian, or caretaker shall direct that the review hearing required by  
16 G.S. 7B-906 be held within ~~six months of~~ 90 days from of the date of the juvenile's  
17 ~~placement in custody dispositional hearing~~ and, if practicable, shall set the date and time  
18 for the review hearing.

19 (c) Any dispositional order directing placement of a juvenile in foster care shall also  
20 ~~contain: shall comply with the requirements of G.S. 7B-506.1.~~

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

23 (2) ~~Findings as to whether reasonable efforts have been made to prevent or~~  
24 ~~eliminate the need for placement of the juvenile in foster care. A finding~~  
25 ~~that reasonable efforts were not made shall not preclude entry of a~~  
26 ~~dispositional order authorizing placement in foster care when the court~~  
27 ~~finds that such placement is needed for protection of the juvenile. When~~  
28 ~~efforts to prevent the need for the juvenile's placement are precluded by~~  
29 ~~an immediate threat of harm to the juvenile, the court may find that~~  
30 ~~placement of the juvenile in the absence of such efforts is reasonable.~~

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

37 (d) ~~An order that places a juvenile in the custody of a county department of social~~  
38 ~~services for placement shall specify that the juvenile's placement and care are the~~  
39 ~~responsibility of the county department of social services and that the county department~~  
40 ~~is to provide or arrange for the foster care or other placement of the juvenile. Any~~  
41 ~~dispositional order shall provide for appropriate visitation as may be in the best interests~~  
42 ~~of the juvenile and consistent with the juvenile's health and safety. If the juvenile is~~  
43 ~~placed in the custody or placement responsibility of a county department of social~~

1 services, the court may order the director to arrange, facilitate, and supervise a visitation  
2 plan expressly approved by the court."

3 Section 25. G.S. 7B-906, as rewritten and recodified by enacted Senate Bill  
4 1260, 1997 General Assembly, reads as rewritten:

5 **"§ 7B-906. Review of custody order.**

6 (a) In any case where custody is removed from a parent, guardian, custodian, or  
7 caretaker the court shall conduct a review hearing within six months of 90 days from the  
8 date the order was entered, of the dispositional hearing shall conduct a second review within  
9 six months after the first review, and shall conduct subsequent reviews at least every year  
10 thereafter. a review hearing within six months thereafter. The director of social services  
11 shall make ~~timely requests~~ a timely request to the clerk to calendar ~~the case~~ each review at  
12 a session of court scheduled for the hearing of juvenile ~~matters within six months of the date~~  
13 ~~the order was entered. matters.~~ matters. The director shall make ~~timely requests for calendaring~~  
14 ~~subsequent reviews.~~ The clerk shall give 15 days' notice of the review and its purpose to  
15 the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent,  
16 relative, or preadoptive parent providing care for the child, the custodian or agency with  
17 custody, the guardian ad litem, and any other person or agency the court may specify,  
18 indicating the court's impending review. Nothing in this subsection shall be construed to  
19 make any foster parent, relative, or preadoptive parent a party to the proceeding solely  
20 based on receiving notice and an opportunity to be heard.

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

- 26 (1) The juvenile has resided with a relative or has been in the custody of  
27 another suitable person for a period of at least one year;
- 28 (2) The placement is stable and continuation of the placement is in the  
29 juvenile's best interests;
- 30 (3) Neither the juvenile's best interests nor the rights of any party require  
31 that review hearings be held every ~~12~~ six months;
- 32 (4) All parties are aware that the matter may be brought before the court for  
33 review at any time by the filing of a motion for review or on the court's  
34 own motion; and
- 35 (5) The court order has designated the relative or other suitable person as  
36 the juvenile's permanent caretaker or guardian of the person.

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

39 (c) At every review hearing, the court shall consider information from the  
40 ~~department of social services, the juvenile, the parent, the guardian, the custodian, the~~  
41 ~~foster parent, the guardian ad litem, and any public or private agency which will aid it in~~  
42 ~~its review.~~ parent, the juvenile, the guardian, any foster parent, relative, or preadoptive

1 parent providing care for the child, the custodian or agency with custody, the guardian ad  
2 litem, and any other person or agency which will aid in its review.

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

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

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

11 (3) Goals of the foster care placement and the appropriateness of the foster  
12 care plan.

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

16 (5) Reports on the placements the juvenile has had and any services offered  
17 to the juvenile and the parent, guardian, custodian, or caretaker.

18 (5a) An appropriate visitation plan.

19 (5b) If the juvenile is 16 or 17 years of age, a report on an independent living  
20 assessment of the juvenile and, if appropriate, an independent living  
21 plan developed for the juvenile.

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

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

24 (d) The court, after making findings of fact, may appoint a guardian of the person  
25 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by G.S.  
26 7B-903, including the authority to place the juvenile in the custody of either parent or any  
27 relative found by the court to be suitable and found by the court to be in the best interests  
28 of the juvenile. ~~If the juvenile is placed in or remains in the custody of the department of social~~  
29 ~~services, the court may authorize the department to arrange and supervise a visitation plan.~~  
30 ~~Except for such visitation, the juvenile shall not be returned to the parent, guardian, custodian, or~~  
31 ~~caretaker without a hearing at which the court finds sufficient facts to show that the juvenile will~~  
32 ~~receive proper care and supervision.~~ The court may enter an order continuing the placement  
33 under review or providing for a different placement as is deemed to be in the best  
34 interests of the juvenile. If at any time custody is restored to a parent, guardian,  
35 custodian, or caretaker the court shall be relieved of the duty to conduct periodic judicial  
36 reviews of the placement.

37 ~~(e) At a hearing designated by the court, but at least within 12 months after the~~  
38 ~~juvenile's placement, a review hearing shall be held under this section and designated as a~~  
39 ~~permanency planning hearing. The purpose of the hearing shall be to develop a plan to~~  
40 ~~achieve a safe, permanent home for the juvenile within a reasonable period of time.~~  
41 ~~Notice of the hearing shall inform the parties of the purpose of the hearing. At the~~  
42 ~~conclusion of the hearing, if the juvenile is not returned home, the court shall make~~  
43 ~~specific findings as to the best plan of care to achieve a safe, permanent home for the~~

1 juvenile within a reasonable period of time and shall enter an order consistent with those  
2 findings.

3 (f) The provisions of subsections (b), (c), and (d) of G.S. ~~7B-905~~ G.S. 7B-506.1  
4 shall apply to any order entered under this section which continues the foster care  
5 placement of a juvenile. section."

6 Section 25.1. If Senate Bill 1260, 1997 General Assembly, is enacted into law  
7 by the 1997 General Assembly, then G.S. 7A-657.1, as enacted in Part I of this act, is  
8 recodified as G.S. 7B-906.1 and reads as rewritten:

9 **"§ 7B-906.1. Permanency planning hearing.**

10 (a) In any case where custody is removed from a ~~parent or person standing in loco~~  
11 ~~parentis, parent, guardian, custodian, or caretaker,~~ the judge shall conduct a review  
12 hearing designated as a permanency planning hearing within 12 months after the date of  
13 the initial order removing custody, and the hearing may be combined, if appropriate, with  
14 a review hearing required by G.S. ~~7A-657.~~ 7B-906. The purpose of the permanency  
15 planning hearing shall be to develop a plan to achieve a safe, permanent home for the  
16 juvenile within a reasonable period of time. Subsequent permanency planning hearings  
17 shall be held at least every six months thereafter, or earlier as set by the court, to review  
18 the progress made in finalizing the permanent plan for the juvenile, or if necessary, to  
19 make a new permanent plan for the juvenile. The Director of Social Services shall make  
20 a timely request to the clerk to calendar each permanency planning hearing at a session of  
21 court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice  
22 of the hearing and its purpose to the ~~parent and to any person standing in loco parentis,~~  
23 parent, the juvenile if 12 years of age or more, the guardian, any foster parent, relative, or  
24 preadoptive parent providing care for the child, the custodian or agency with custody, the  
25 guardian ad litem, and any other person or agency the court may specify, indicating the  
26 court's impending review. Nothing in this provision shall be construed to make any  
27 foster parent, relative, or preadoptive parent a party to the proceeding solely based on  
28 receiving notice and an opportunity to be heard.

29 (b) At any permanency planning review, the court shall consider information from  
30 the parent, ~~any person standing in loco parentis,~~ the juvenile, the guardian, any foster parent,  
31 relative or preadoptive parent providing care for the child, the custodian or agency with  
32 custody, the guardian ad litem, and any other person or agency which will aid it in the  
33 court's review. At the conclusion of the hearing, if the juvenile is not returned home, the  
34 court shall consider the following criteria and make written findings regarding those that  
35 are relevant:

- 36 (1) Whether it is possible for the juvenile to be returned home immediately  
37 or within the next six months, and if not, why it is not in the juvenile's  
38 best interests to return home;
- 39 (2) Where the juvenile's return home is unlikely within six months, whether  
40 legal guardianship or custody with a relative or some other suitable  
41 person should be established, and if so, the rights and responsibilities  
42 which should remain with the parents;

- 1 (3) Where the juvenile's return home is unlikely within six months, whether  
2 adoption should be pursued and if so, any barriers to the juvenile's  
3 adoption;
- 4 (4) Where the juvenile's return home is unlikely within six months, whether  
5 the juvenile should remain in the current placement or be placed in  
6 another permanent living arrangement and why;
- 7 (5) Whether the county department of social services has since the initial  
8 permanency plan hearing made reasonable efforts to implement the  
9 permanent plan for the juvenile;
- 10 (6) Any other criteria the court deems necessary.

11 (c) At the conclusion of the hearing, the judge shall make specific findings as to  
12 the best plan of care to achieve a safe, permanent home for the juvenile within a  
13 reasonable period of time. The judge may appoint a guardian of the person for the  
14 juvenile pursuant to G.S. ~~7A-585-7B-600~~ or make any disposition authorized by G.S. ~~7A-~~  
15 ~~647-7B-903~~ including the authority to place the child in the custody of either parent or  
16 any relative found by the court to be suitable and found by the court to be in the best  
17 interest of the juvenile. If the juvenile is not returned home, the court shall enter an order  
18 consistent with its findings that directs the department of social services to make  
19 reasonable efforts to place the juvenile in a timely manner in accordance with the  
20 permanent plan, to complete whatever steps are necessary to finalize the permanent  
21 placement of the juvenile, and to document such steps in the juvenile's case plan. If at  
22 any time custody is restored to a parent, or findings are made in accordance with G.S. ~~7A-~~  
23 ~~657(b),-7B-906(b),~~ the court shall be relieved of the duty to conduct periodic judicial  
24 reviews of the placement.

25 If the court continues the juvenile's placement in the custody or placement  
26 responsibility of a county department of social services, the provisions of G.S. ~~7A-577.1~~  
27 ~~7B-506.1~~ shall apply to any order entered under this section.

28 (d) In the case of a juvenile who is in the custody or placement responsibility of a  
29 county department of social services, and has been in placement outside the home for 15  
30 of the most recent 22 months; or a court of competent jurisdiction has determined that the  
31 parent has abandoned the child; or has committed murder or voluntary manslaughter of  
32 another child of the parent; or has aided, abetted, attempted, conspired, or solicited to  
33 commit murder or voluntary manslaughter of the child or another child of the parent, the  
34 court shall order the director of the department of social services to initiate a proceeding  
35 to terminate the parental rights of the parent unless the court finds:

- 36 (1) The permanent plan for the juvenile is guardianship or custody with a  
37 relative or some other suitable person;
- 38 (2) The court makes specific findings why the filing of a petition for  
39 termination of parental rights is not in the best interests of the child; or
- 40 (3) The department of social services has not provided the juvenile's family  
41 with such services as the department deems necessary, when reasonable  
42 efforts are still required to enable the juvenile's return to a safe home.

1 (e) If a proceeding to terminate the parental rights of the juvenile's parents is  
2 necessary in order to perfect the permanent plan for the juvenile, the director of the  
3 department of social services shall file a petition to terminate parental rights within 60  
4 calendar days from the date of the permanency planning hearing unless the court makes  
5 written findings why the petition cannot be filed within 60 days. If the court makes  
6 findings to the contrary, the court shall specify the time frame in which any needed  
7 petition to terminate parental rights shall be filed."

8 Section 26. G.S. 7B-907, as rewritten and recodified by enacted Senate Bill  
9 1260, 1997 General Assembly, reads as rewritten:

10 **"§ 7B-907. Posttermination of parental rights' placement court review.**

11 (a) The purpose of each placement review is to ensure that every reasonable effort  
12 is being made to provide for a permanent placement plan for the juvenile who has been  
13 placed in the custody of a county director or licensed child-placing agency, which is  
14 consistent with the juvenile's best interests. At each review hearing the court may  
15 consider information from the department of social services, the licensed child-placing  
16 agency, the guardian ad litem, the ~~juvenile, the child,~~ any foster parent, relative, or  
17 preadoptive parent providing care for the child, and any other person or agency the court  
18 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 thereafter until the juvenile is placed for adoption and  
24 the 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 any~~ any foster  
28 parent, relative, or preadoptive parent providing care for the juvenile,  
29 the guardian ad litem, if any, and any other person or agency the court  
30 may specify. Only the juvenile, if the juvenile is at least 12 years of  
31 age, the legal custodian of the juvenile, ~~the any~~ any foster parent, relative, or  
32 preadoptive parent providing care for the juvenile, and the guardian ad  
33 litem shall attend the review hearings, except as otherwise directed by  
34 the court. Nothing in this subdivision shall be construed to make any  
35 foster parent, relative, or preadoptive parent a party to the proceeding  
36 solely based on receiving notice and an opportunity to be heard.

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

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



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

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

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

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

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

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

27 Section 26.1. If Senate Bill 1260, 1997 General Assembly, is enacted into law  
28 by the 1997 General Assembly, then G.S. 7A-289.23.1, as enacted in Part I of this act, is  
29 recodified as G.S. 7B-1101.1 and reads as rewritten:

30 **"§ 7B-1101.1. Pending child abuse, neglect, or dependency hearings.**

31 When a juvenile is currently within the jurisdiction of the district court based upon an  
32 abuse, neglect, or dependency proceeding, a petition for termination of parental rights to  
33 that juvenile may be filed as a motion in the cause in the abuse, neglect, or dependency  
34 proceeding. Any parent of that juvenile who was previously served in the abuse, neglect,  
35 or dependency proceeding in accordance with G.S. ~~7A-565-7B-407~~ shall be served with  
36 the petition to terminate parental rights in accordances with G.S. 1A-1, Rule 5."

37 Section 27. G.S. 7B-1105, as rewritten and recodified by enacted Senate Bill  
38 1260, 1997 General Assembly, reads as rewritten:

39 **"§ 7B-1105. Issuance of summons.**

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

43 (1) The parents of the juvenile;

- 1 (2) Any person who has been judicially appointed as guardian of the person  
2 of the juvenile;
- 3 (3) The custodian of the juvenile appointed by a court of competent  
4 jurisdiction;
- 5 (4) Any county department of social services or licensed child-placing  
6 agency to whom a juvenile has been released by one parent pursuant to  
7 Part 7 of Article 3 of Chapter 48 of the General Statutes; ~~Statutes or any~~  
8 county department of social services to whom placement responsibility  
9 for the child has been given by a court of competent jurisdiction; and
- 10 (5) The juvenile, if the juvenile is 12 years of age or older at the time the  
11 petition is filed.

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

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

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

36 (c) If a county department of social services, not otherwise a party petitioner, is  
37 served with a petition alleging that the parental rights of the parent should be terminated  
38 pursuant to G.S. 7B-1110, the department shall file a written answer and shall be deemed  
39 a party to the proceeding."

40 Section 28. G.S. 7B-1110, as rewritten and recodified by enacted Senate Bill  
41 1260, 1997 General Assembly, reads as rewritten:

42 "**§ 7B-1110. Grounds for terminating parental rights.**

1 (a) The court may terminate the parental rights upon a finding of one or more of  
2 the following:

3 (1) The parent has abused or neglected the juvenile. The juvenile shall be  
4 deemed to be abused or neglected if the court finds the juvenile to be an  
5 abused juvenile within the meaning of G.S. 7B-101 or a neglected  
6 juvenile within the meaning of G.S. 7B-101.

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

14 (3) The juvenile has been placed in the custody of a county department of  
15 social services, a licensed child-placing agency, a child-caring  
16 institution, or a foster home, and the parent, for a continuous period of  
17 six months next preceding the filing of the petition, has willfully failed  
18 for such period to pay a reasonable portion of the cost of care for the  
19 juvenile although physically and financially able to do so.

20 (4) One parent has been awarded custody of the juvenile by judicial decree  
21 or has custody by agreement of the parents, and the other parent whose  
22 parental rights are sought to be terminated has for a period of one year  
23 or more next preceding the filing of the petition willfully failed without  
24 justification to pay for the care, support, and education of the juvenile,  
25 as required by said decree or custody agreement.

26 (5) The father of a juvenile born out of wedlock has not, prior to the filing  
27 of a petition to terminate parental rights:

28 a. Established paternity judicially or by affidavit which has been  
29 filed in a central registry maintained by the Department of Health  
30 and Human Services; provided, the court shall inquire of the  
31 Department of Health and Human Services as to whether such an  
32 affidavit has been so filed and shall incorporate into the case  
33 record the Department's certified reply; or

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

36 c. Legitimated the juvenile by marriage to the mother of the  
37 juvenile; or

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

40 (6) That the parent is incapable of providing for the proper care and  
41 supervision of the juvenile, such that the juvenile is a dependent  
42 juvenile within the meaning of G.S. 7B-101, and that there is a  
43 reasonable probability that such incapability will continue for the

1 foreseeable future. Incapability under this subdivision may be the result  
2 of substance abuse, mental retardation, mental illness, organic brain  
3 syndrome, or any other similar cause or condition.

4 (7) The parent has willfully abandoned the juvenile for at least six  
5 consecutive months immediately preceding the filing of the petition. ~~For~~  
6 ~~the purpose of this subdivision, a juvenile may be willfully abandoned by the~~  
7 ~~juvenile's natural father if the mother of the juvenile had been willfully~~  
8 ~~abandoned by and was living separate and apart from the father at the time of~~  
9 ~~the juvenile's birth, although the father may not have known of such birth; but~~  
10 ~~in any event the juvenile must be over the age of three months at the time of~~  
11 ~~the filing of the petition.~~

12 (8) The parent has committed murder or voluntary manslaughter of another  
13 child of the parent or other child residing in the home; has aided,  
14 abetted, attempted, conspired, or solicited to commit murder or  
15 voluntary manslaughter of the child, another child of the parent, or other  
16 child residing in the home; or has committed a felony assault that results  
17 in serious bodily injury to the child, another child of the parent, or other  
18 child residing in the home.

19 (9) The parental rights of the parent with respect to another child of the  
20 parent have been terminated involuntarily by a court of competent  
21 jurisdiction and the parent lacks the ability or willingness to establish a  
22 safe home.

23 (b) The burden in such proceedings shall be upon the petitioner to prove the facts  
24 justifying such termination by clear and convincing evidence."

25 Section 29. Sections 1 through 9 of this act become effective January 1, 1999,  
26 and apply to abuse, neglect, and dependency reports received, juvenile petitions filed, and  
27 review hearings commenced on and after that date. Sections 10 and 11 of this act  
28 become effective January 1, 1999, and apply to termination of parental rights petitions  
29 filed on and after that date. Sections 12 through 16 of this act become effective January  
30 1, 1999, and apply to any placement of a minor who is in the custody or placement  
31 responsibility of a county department of social services on and after that date. If the 1997  
32 General Assembly enacts Senate Bill 1260, Sections 1 through 4, 5 through 8, 9, 10, and  
33 11 of this act expire June 30, 1999, and Sections 18 through 28 of this act only become  
34 effective on July 1, 1999. The remainder of this act is effective when it becomes law.