

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1997

SESSION LAW 1998-202  
SENATE BILL 1260

AN ACT TO DEVELOP A PLAN OF REORGANIZATION FOR THE TRANSFER OF THE DIVISION OF YOUTH SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE DIVISION OF JUVENILE SERVICES OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO ESTABLISH THE OFFICE OF JUVENILE JUSTICE, TO AMEND AND RECODIFY THE NORTH CAROLINA JUVENILE CODE, AND TO CONFORM THE GENERAL STATUTES TO THE RECODIFICATION OF THE JUVENILE CODE, AS RECOMMENDED BY THE COMMISSION ON JUVENILE CRIME AND JUSTICE.

The General Assembly of North Carolina enacts:

**PART I. THE TRANSFER OF THE DIVISION OF YOUTH SERVICES AND THE JUVENILE SERVICES DIVISION TO THE OFFICE OF THE GOVERNOR AND CONFORMING STATUTORY CHANGES**

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of the General Statutes, Article 2 of Chapter 110 of the General Statutes, and Chapter 134A of the General Statutes are repealed.

(b) Chapter 147 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3C.

"Office of Juvenile Justice.

"Part 1. Creation of Office.

**"§ 147-33.30. Creation of the Office of Juvenile Justice.**

(a) There is established within the Office of the Governor the Office of Juvenile Justice ("Office"). All executive and administrative powers, duties, and functions are vested in the Office, excluding those of the General Assembly and its agencies, the General Court of Justice, and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies.

(b) Except as modified in this Article, the Governor has the authority, powers, and duties over the Office that are assigned to the Governor and the head of department pursuant to Article 1 of Chapter 143B of the General Statutes, G.S. 143A-6(a), and the Constitution and other laws of this State.

**"§ 147-33.31. Transfer of Juvenile Services Division authority to the Office of Juvenile Justice.**

(a) All (i) statutory authority, powers, duties, and functions, including rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Juvenile Services Division of the Administrative Office of the Courts are transferred to and vested in the Office of Juvenile Justice. This transfer has all of the elements of a Type I transfer, as defined in G.S. 143A-6.

(b) The Office shall be considered a continuation of the Juvenile Services Division of the Administrative Office of the Courts for the purpose of succession to all rights, powers, duties, and obligations of the Division and of those rights, powers, duties, and obligations exercised by the Administrative Office of the Courts on behalf of the Division. Where the Juvenile Services Division is referred to by law, contract, or other document, that reference shall apply to the Office. Where the Administrative Office of the Courts is referred to by contract or other document, where the Administrative Office of the Courts is acting on behalf of the Juvenile Services Division, that reference shall apply to the Office.

(c) All institutions previously operated by the Juvenile Services Division of the Administrative Office of the Courts and the present central office of the Juvenile Services Division, including land, buildings, equipment, supplies, personnel, or other properties rented or controlled by the Division or by the Administrative Office of the Courts for the Division, shall be administered by the Office of Juvenile Justice.

**"§ 147-33.32. Transfer of Division of Youth Services authority to the Office of Juvenile Justice.**

(a) All (i) statutory authority, powers, duties, and functions, including rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Division of Youth Services of the Department of Health and Human Services are transferred to and vested in the Office of Juvenile Justice. This transfer has all of the elements of a Type I transfer, as defined in G.S. 143A-6.

(b) The Office shall be considered a continuation of the Division of Youth Services of the Department of Health and Human Services for the purpose of succession to all rights, powers, duties, and obligations of the Division and of those rights, powers, duties, and obligations exercised by the Department on behalf of the Division. Where the Division of Youth Services is referred to by law, contract, or other document, that reference shall apply to the Office. Where the Department of Health and Human Services is referred to by contract or other document, where the Department is acting on behalf of the Division of Youth Services, that reference shall apply to the Office.

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

"Part 2. General Provisions.

**"§ 147-33.33. Definitions.**

The definitions set forth in G.S. 7A-517 apply to this Article, unless modified in this Article.

**"§ 147-33.34. Duties, powers, and head of the Office of Juvenile Justice.**

(a) The Governor shall be responsible for effectively and efficiently organizing the Office to promote the policy of the State as set forth in this Article and to promote public safety and prevent the commission of delinquent acts by juveniles. The duties and powers of the Office and of the Governor, as head of the Office, are to:

- (1) Give leadership to the implementation as appropriate of State policy which requires that training schools be phased out as populations diminish.
- (2) Close a State training school when its operation is no longer justified and to transfer State funds appropriated for the operation of any training school which is closed to fund community-based programs or to purchase care or services for predelinquents, delinquents or status offenders in community-based or other appropriate programs or to improve the efficiency of existing training schools, provided such actions are approved by the Advisory Budget Commission.
- (3) Develop a sound admission or intake program to juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.
- (4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.
- (5) Adopt rules and regulations to implement the provisions of this Article and the responsibilities of the Office under Subchapter XI of Chapter 7A of the General Statutes. The Governor may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.
- (6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation and aftercare services in all district court districts of the State to provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.
- (7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.
- (8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.
- (9) Develop standards and approve yearly program evaluations and make recommendations to the General Assembly concerning continuation funding based on the evaluations.

- (10) Collect expense data for every program operated and contracted by the Office.
- (11) Develop a formula for funding on a matching basis for juvenile court and delinquency prevention services as provided for in this Article. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under the provisions of this Article must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Office.
- (12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services, and to provide information on the availability of potential funding sources and assistance in making application for needed funding.
- (13) Assist the Criminal Justice Information Network Governing Board with administering a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.
- (14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.
- (15) Appoint the chief court counselor in each district court district upon the recommendation of the chief district court judge of that district.
- (16) Develop a statewide plan for training and professional development of chief court counselors, court counselors, and other personnel responsible for the care, supervision, and treatment of juveniles, including attendance at appropriate professional meetings and opportunities for educational leave for academic study.
- (17) Study issues related to qualifications, salary ranges, appointment of personnel on a merit basis, including chief court counselors, court counselors, secretaries, and other appropriate personnel, at the State and district levels in order to adopt appropriate policies and procedures governing personnel.
- (18) Have all other powers of a department head in relation to juvenile services, juvenile facilities, or juvenile programs as provided by this Article, Chapter 143B of the General Statutes, or as provided by any other appropriate State law.

(b) Where Office statistics indicate the presence of minority youth in juvenile facilities disproportionate to their presence in the general population, the Office shall

develop and recommend appropriate strategies designed to ensure fair and equal treatment in the juvenile justice system.

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

(d) The Office shall develop a cost-benefit model and apply the model to each State-funded program. Program commitment and recidivism rates shall be components of the model. In developing the model, the Office shall consider the recommendations of the State Advisory Council on Juvenile Justice and Delinquency Prevention.

**"§ 147-33.35. Authority to contract with other entities.**

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

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

(c) The Office and any other appropriate State or local agency may purchase services from public or private agencies providing delinquency prevention programs or juvenile court services, including parenting responsibility classes. The programs shall meet State standards. As institutional populations are reduced, the Office may divert State funds appropriated for institutional programs to purchase the services pursuant to the provisions of the Executive Budget Act.

(d) Each programmatic, residential, and service contract or agreement entered into by the Office shall include a cooperation clause to ensure compliance with the Office's quality assurance requirements and cost-accounting requirements.

**"§ 147-33.36. Authority to assist private nonprofit foundations.**

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

The board of directors of each private, nonprofit foundation shall secure and pay for the services of the Department of State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the foundation. The board of directors shall transmit to the Office a copy of the annual financial audit report of the private nonprofit foundation.

**"§ 147-33.37. Annual report.**

On or before April 1 each year, beginning with the year 2000, the Office shall report to the General Assembly on the effectiveness and cost benefit of every program operated and contracted by the Office and a summary of the local programs that receive State funding. The report shall include the most current institutional populations of juveniles being served by the Office, a comparison of the costs of the services, and a ranking of all programs that provide services to juveniles. The Office shall submit the report to the various State agencies providing services to juveniles.

**"Part 3. Juvenile Facilities.**

**"§ 147-33.38. Juvenile facilities.**

The Office shall be responsible for administration of statewide programs to provide any juvenile in a juvenile facility with appropriate treatment according to the juvenile's needs, including educational, clinical and psychological, psychiatric, social, medical, vocational, and recreational services or programs.

**"§ 147-33.39. Authority to provide necessary medical or surgical care.**

The Office may provide any medical and surgical treatment necessary to preserve the life and health of juveniles committed to the custody of the Office, provided that no surgical operation may be performed except as authorized in G.S. 148-22.2.

**"§ 147-33.40. Compensation to juveniles committed to the Office.**

Juveniles who have been committed to the Office may be compensated for work or participation in training programs at rates approved by the Office within available funds. The Office may provide for a reasonable allowance to the juvenile for incidental personal expenses, and any balance of the juvenile's earnings remaining at the time the juvenile is released shall be paid to the juvenile or the juvenile's parent or guardian. The Office is authorized to accept grants or funds from any source to compensate juveniles as provided under this section.

**"§ 147-33.41. Visits and community activities.**

(a) The Office shall encourage visits by parents or guardians and responsible relatives of juveniles committed to the custody of the Office.

(b) The Office shall develop a program of home visits for juveniles in the custody of the Office. In developing the program, the Office shall adopt criteria that promote the protection of the public and the best interests of the juvenile.

**"§ 147-33.42. Regional detention services.**

The Office shall be responsible for juvenile detention services, including the development of a statewide plan for regional juvenile detention services that offer juvenile detention care of sufficient quality to meet State standards to any juvenile requiring juvenile detention care within the State in a detention home or regional detention home as follows:

- (1) The Office shall plan with the counties operating a county detention home to provide regional juvenile detention services to surrounding counties, except that the Office shall have discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate factors.

- (2) The Office may plan with any county that has space within its county jail system to use the existing space for a county detention home when needed, if the space meets the State standards for a detention home and meets all of the requirements of G.S. 153A-221. The use of space within the county jail system shall be structured to ensure that juveniles would not be able to converse with, see, or be seen by the adult population, and juveniles housed in a space within a county jail shall be supervised closely.
- (3) The Office shall plan for and administer regional detention homes, including careful planning on location, architectural design, construction, and administration of a program to meet the needs of juveniles in juvenile detention care. The physical facility of a regional detention home shall comply with all applicable State and federal standards. The programs of a regional detention home shall comply with the standards established by the Office.

**"§ 147-33.43. State subsidy to county detention homes.**

The Office shall administer a State subsidy program to pay a county that provides juvenile detention services and meets State standards a certain per diem per juvenile. In general, this per diem should be fifty percent (50%) of the total cost of caring for a juvenile from within the county and one hundred percent (100%) of the total cost of caring for a juvenile from another county. Any county placing a juvenile in a detention home in another county shall pay fifty percent (50%) of the total cost of caring for the juvenile to the Office. The exact funding formulas may be varied by the Office to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care.

**"§ 147-33.44. Authority for implementation.**

In order to allow for effective implementation of a statewide regional approach to juvenile detention, the Office may:

- (1) Release or transfer a juvenile from one detention home to another when necessary to appropriately administer the juvenile's detention.
- (2) Plan with counties operating county detention homes to provide regional services and to upgrade physical facilities to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards.
- (3) Allow law enforcement officers or other appropriate employees of local government to be reimbursed by the State for the costs of transportation of a juvenile to and from any juvenile detention home.
- (4) Seek funding for juvenile detention services from federal sources, and to accept gifts of funds from public or private sources.

"Part 4. Juvenile Court Services.

**"§ 147-33.45. Duties and powers of chief court counselors.**

The chief court counselor in each district court district appointed as provided by this Article may:

- (1) Appoint court counselors, secretaries, and other personnel authorized by the Office in accordance with the personnel policies adopted by the Office.
- (2) Supervise and direct the program of juvenile intake, protective supervision, probation, and aftercare within the district court district.
- (3) Provide in-service training for staff as required by the Office.
- (4) Keep any records and make any reports requested by the Office in order to provide statewide data and information about juvenile needs and services.

**"§ 147-33.46. Duties and powers of juvenile court counselors.**

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

- (1) Secure or arrange for such information concerning a case as the court may require before, during, or after the hearing.
- (2) Prepare written reports for the use of the court.
- (3) Appear and testify at court hearings.
- (4) Assume custody of a juvenile as authorized by G.S. 7A-571, or when directed by court order.
- (5) Furnish each juvenile on probation or protective supervision and the juvenile's parents, guardian, or custodian with a written statement of the juvenile's conditions of probation or protective supervision, and consult with the juvenile's parents, guardian, or custodian so that they may help the juvenile comply with the conditions.
- (6) Keep informed concerning the conduct and progress of any juvenile on probation or under protective supervision through home visits or conferences with the parents or guardian and in other ways.
- (7) See that the conditions of probation are complied with by the juvenile, or to bring any juvenile who violates the juvenile's probation to the attention of the court.
- (8) Make periodic reports to the court concerning the adjustment of any juvenile on probation or under court supervision.
- (9) Keep any records of the juvenile's work as the court may require.
- (10) Account for all funds collected from juveniles.
- (11) Serve necessary court documents pertaining to delinquent and undisciplined juvenile matters.
- (12) Assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public, or the juvenile, and necessary to carry out the responsibilities of court counselors under this section and under Subchapter XI of Chapter 7A of the General Statutes.
- (13) Use reasonable force and restraint necessary to secure custody assumed under subdivision (12) of this section.
- (14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide



supervision for any juvenile released from an institution operated by the Office when requested by the Office to do so.

(15) Assist in the development of aftercare and the supervision of juveniles.

(16) Have any other duties as the court may direct.

"Part 5. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

**"§ 147-33.47. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.**

(a) The Office shall develop a comprehensive juvenile delinquency and substance abuse prevention plan and shall coordinate with county Juvenile Crime Prevention Councils, as provided in G.S. 147-33.48, for implementation of a continuum of services and programs at the community level. The Office shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention.

(b) The Office shall ensure that the plan contains the following:

(1) Identification of the risk factors at the developmental stages of a juvenile's life that may result in delinquent behavior.

(2) Identification of the protective factors that families, schools, communities, and the State must support to reduce the risk of juvenile delinquency.

(3) Programmatic concepts that are effective in preventing juvenile delinquency and substance abuse and that should be made available as basic services in the communities, including:

a. Early intervention programs and services.

b. In-home training and community-based family counseling and parent training.

c. Adolescent and family substance abuse prevention services, including alcohol abuse prevention services, and substance abuse education.

d. Programs and activities offered before and after school hours.

e. Life and social skills training programs.

f. Classes or seminars that teach conflict resolution, problem solving, and anger management.

g. Services that provide personal advocacy, including mentoring relationships, tutors, or other caring adult programs.

(c) Prior to the implementation of the Office's plan prescribed in this section, the Office shall report to the State Advisory Council on Juvenile Justice and Delinquency Prevention, as established in G.S. 147-33.56.

(d) The Office shall cooperate with all other affected State agencies and entities in implementing this section.

"Part 6. Juvenile Crime Prevention Councils.

**"§ 147-33.48. Legislative intent.**

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this Part is to develop community-based alternatives to training schools and to provide community-based delinquency and

substance abuse prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils.

**"§ 147-33.49. Creation; method of appointment; membership; chair and vice-chair.**

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of county commissioners shall appoint a Juvenile Crime Prevention Council. The Juvenile Crime Prevention Council shall consist of not more than 25 members and should include, if possible, the following:

- (1) The local school superintendent(s), or that person's designee(s);
- (2) A chief of police in the county;
- (3) The local sheriff, or that person's designee;
- (4) The district attorney, or that person's designee;
- (5) The chief court counselor, or that person's designee;
- (6) The director of the area mental health, developmental disabilities, and substance abuse authority, or that person's designee;
- (7) The director of the county department of social services, or consolidated human services agency, or that person's designee;
- (8) The county manager, or that person's designee;
- (9) A substance abuse professional;
- (10) A member of the faith community;
- (11) A county commissioner;
- (12) A person under the age of 21;
- (13) A juvenile defense attorney;
- (14) The chief district court judge, or a district court judge designated by the chief district court judge;
- (15) A member of the business community;
- (16) The local health director, or that person's designee;
- (17) A representative from the United Way or other nonprofit agency;
- (18) A representative of a local parks and recreation program; and
- (19) Up to seven members of the public to be appointed by the county board of commissioners.

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

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council pursuant to subsection (a) of this section. The membership shall be representative of each participating county.

(c) The chair and vice-chair shall be elected annually by the members of the Council.

**"§ 147-33.50. Terms of appointment.**

Each member of a Juvenile Crime Prevention Council shall serve for a term of two years. Members may be reappointed. Terms of appointment shall begin January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 147-33.49(a) shall be for an initial one-year term and two-year terms thereafter.

**"§ 147-33.51. Vacancies; removal.**

Appointments to fill vacancies shall be for the remainder of the former member's term.

Members shall only be removed for misfeasance, malfeasance, or nonfeasance as determined by the board of county commissioners.

**"§ 147-33.52. Meetings; quorum.**

Councils shall meet at least once per month, or more often if a meeting is called by the chair.

A majority of members shall constitute a quorum.

**"§ 147-33.53. Compensation of members.**

Members of Juvenile Crime Prevention Councils shall receive no compensation but may receive a per diem in such an amount as may be established by the board of county commissioners.

**"§ 147-33.54. Powers and duties.**

(a) The Councils shall annually review the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Office for final approval and subsequent implementation.

(b) The Councils shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community level sanctions for court-adjudicated juveniles pursuant to minimum standards adopted by the Office.

(c) The Councils shall perform the following functions on an ongoing basis:

- (1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs;
- (2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding;

- (3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem;
- (4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments;
- (5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families, including court-ordered parenting responsibility classes; and
- (6) Plan for the establishment of a permanent funding stream for delinquency prevention services.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district.

**"§ 147-33.55. Funding for programs.**

(a) The Office shall develop a funding mechanism for programs that meet the standards as developed under the provisions of this Part. The Office shall ensure that the guidelines for the State/local partnership's funding process include the following requirements:

- (1) Fund effective programs. – The Office shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded;
- (2) Use a formula for the distribution of funds. – A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternatives services to juveniles in their communities;
- (3) Allow and encourage local flexibility. – A vital component of the State/local partnership established by this section is local flexibility to determine how best to allocate prevention and alternatives funds; and
- (4) Combine resources. – Counties shall be allowed and encouraged to combine resources and services.

(b) The Office shall adopt rules to implement this section, and the Office shall provide technical assistance to Juvenile Crime Prevention Councils and shall ensure that the Juvenile Crime Prevention Councils evaluate all State-funded programs and services on an ongoing and regular basis.

"Part 7. State Advisory Council on Juvenile Justice and Delinquency Prevention.

**"§ 147-33.56. Creation of Council; purpose; members; duties.**

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

(b) Purpose. – The purpose of the Council is to review and advise the Office in the development of a comprehensive interagency plan to reduce juvenile delinquency and substance abuse and to coordinate efforts among State agencies providing services and supervision to juveniles who are at risk of delinquency and for juveniles who have been adjudicated of delinquent and undisciplined behavior.

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

- (1) Five persons appointed by the Governor, one of whom is a private citizen who has demonstrated an interest in and commitment to juvenile justice issues.
- (2) Four persons appointed by the Chief Justice of the Supreme Court.
- (3) The following persons, or their designees, ex officio:
  - a. The Governor.
  - b. The Chief Justice of the Supreme Court.
  - c. The President Pro Tempore of the Senate.
  - d. The Speaker of the House of Representatives.
  - e. The Director of the Administrative Office of the Courts.
  - f. The Superintendent of Public Instruction.
  - g. The Secretary of the Department of Administration.
  - h. The Secretary of the Department of Health and Human Services.
  - i. The Secretary of the Department of Correction.
  - j. The Secretary of the Department of Crime Control and Public Safety.

(d) Terms. – Members, other than ex officio members, shall serve for two-year terms, beginning January 1, 1999, with no prohibition against being reappointed, except initial appointments shall be for terms as follows:

- (1) The Governor shall initially appoint three members for terms of two years and two members for terms of three years.
- (2) The Chief Justice of the Supreme Court shall initially appoint two members for terms of two years and two members for terms of three years.

(e) Chair. – The Governor and Chief Justice of the Supreme Court shall serve as cochairs of the Council.

(f) Vacancies. – A vacancy on the Council resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) Compensation. – The Council members shall receive no salary as a result of serving on the Council but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(h) Removal. – Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) Meetings. – The chair shall convene the Council. Meetings shall be held as often as necessary but not less than four times a year.

(j) Quorum. – A majority of the members of the Council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Council shall be necessary for action to be taken by the Council.

**"§ 147-33.57. Powers and duties of the Council.**

The Council shall have the following powers and duties:

- (1) Advise the Office in the review of the State's juvenile justice planning, the development of the community juvenile justice councils, and the development of a formula for the distribution of funds to Juvenile Crime Prevention Councils.
- (2) Advise all State agencies serving juveniles for the purpose of developing a consistent philosophy with regard to providing services to juveniles and promoting collaboration and the efficient and effective delivery of services to juveniles and families through State, local, and district programs and fully address problems of collaboration across State agencies with the goal of serving juveniles.
- (3) Review and comment on juvenile justice, delinquency prevention, and juvenile services grant applications prepared for submission under any federal grant program by any governmental entity of the State.
- (4) Review the juvenile justice system's operation and prioritization of funding needs.
- (5) Review the progress and accomplishment of State and local juvenile justice, delinquency prevention, and juvenile services projects.
- (6) Develop recommendations concerning the establishment of priorities and needed improvements with respect to juvenile justice, delinquency prevention, and juvenile services and report its recommendations to the General Assembly on or before March 1 each year, beginning in the year 2000.
- (7) Review and comment on the proposed budget for the Office."

(c) All juveniles in the custody or placement responsibility of the Division of Youth Services of the Department of Health and Human Services, as of January 1, 1999, are hereby transferred effective on that date to the custody or placement responsibility of the Office of Juvenile Justice. All juveniles under the supervision of the Division of Juvenile Services of the Administrative Office of the Courts and all juveniles for whom a juvenile petition is pending as of January 1, 1999, are hereby transferred effective on that date to the supervision or administrative responsibility of the Office of Juvenile Justice.

(d) Beginning January 1, 1999, the Office of Juvenile Justice shall have all the authority, powers, and duties of the Division of Youth Services of the Department of Health and Human Services and the Juvenile Services Division of the Administrative Office of the Courts pursuant to Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1(b) of this act. Effective January 1, 1999, the terms "Division", "Division of Youth Services", "Division of Juvenile Services", "Juvenile Services Division", "Administrative Office of the Courts", "Director of Youth Services", "Director of the Division of Youth Services", "Administrator for Juvenile Services", and "Administrator of Juvenile Services" as used in Subchapter XI of Chapter 7A of the General Statutes shall refer to the Office of Juvenile Justice established in Section 1(b) of this act.

(e) The Office of the Governor shall report to the Joint Legislative Commission on Governmental Operations and to the House and Senate Appropriations

Committees on or before May 1, 1999, on the organizational structure and staffing of the Office of Juvenile Justice. The report shall include:

- (1) The total budget for the 1998-99 fiscal year and the proposed budget for 1999-2000 fiscal year, including the source of funds.
- (2) A summary of unexpended balances of appropriations, allocations, reserves, and support costs transferred from the Division of Youth Services of the Department of Health and Human Services and of the Juvenile Services Division of the Administrative Office of the Courts.
- (3) A list of personnel positions, including any personnel positions that have been reclassified, abolished, or established as part of the new structure and the differences between old and new salaries.
- (4) An organization chart of all proposed and operating programs, including a summary of the status of the development of the Juvenile Crime Prevention Councils and the allocation of funding for local programs.

Section 2. (a) G.S. 147-33.33, as enacted by Section 1 of this act, reads as rewritten:

**"§ 147-33.33. Definitions.**

The definitions set forth in ~~G.S. 7A-517~~ G.S. 7B-1501 apply to this Article, unless modified in this Article."

(b) G.S. 147-33.34(5), as enacted by Section 1 of this act, reads as rewritten:

- "(5) To adopt rules and regulations to implement the provisions of this Article and the responsibilities of the Office under ~~Subchapter XI of Chapter 7A~~ Chapter 7B of the General Statutes. The Governor may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments."

(c) G.S. 147-33.41, as enacted by Section 1 of this act, reads as rewritten:

**"§ 147-33.41. Visits and community activities.**

(a) The Office shall encourage visits by parents or guardians and responsible relatives of juveniles committed to the custody of the Office.

(b) The Office shall develop a program of home visits for juveniles in the custody of the ~~Office~~ Office, after the juvenile has been in the custody of the Office for a period of at least six months. In developing the program, the Office shall adopt criteria that promote the protection of the public and the best interests of the juvenile."

(d) G.S. 147-33.46(4), as enacted by Section 1 of this act, reads as rewritten:

- "(4) To assume custody of a juvenile as authorized by ~~G.S. 7A-571~~, G.S. 7B-1900, or when directed by court order."

(e) G.S. 147-33.46(12), as enacted by Section 1 of this act, reads as rewritten:

"(12) To assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public, or the juvenile, and necessary to carry out the responsibilities of court counselors under this section and under ~~Subchapter XI of Chapter 7A~~ Chapter 7B of the General Statutes."

(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term "post-release supervision" for the term "aftercare" and the term "detention facility" for the terms "detention home" and "regional detention home" everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

## **PART II. PLAN OF REORGANIZATION**

Section 3. The Governor shall develop a proposed plan of reorganization to transfer all authority, powers, duties, and functions of the Division of Youth Services of the Department of Health and Human Services and of the Juvenile Services Division of the Administrative Office of the Courts, which are temporarily transferred to the Office of the Governor in Section 1 of this act, to an existing principal State department, or in the alternative, to a new principal State department. While the Division of Youth Services and the Juvenile Services Division ("Divisions") are consolidated under the Office of the Governor, the Governor shall consider the organizational structure, the operating budgets, and the duties and requirements of the Divisions to determine how those Divisions can operate most effectively and efficiently.

As part of the development of the plan of reorganization, the Governor shall conduct a study to determine alternative organizational structures for managing State juvenile programs and shall consider the feasibility and advisability of transferring the authority, powers, duties, and functions of the Divisions to an existing principal State department or in the alternative, to a new principal State department. The Governor shall review all agency divisions, councils, and programs that provide services to and treatment of juveniles, including other divisions of the Department of Health and Human Services, the Center for the Prevention of School Violence, School Resource Officers, and the Guardian ad Litem Program of the Administrative Office of the Courts to determine whether the agency divisions, councils, or programs would operate more effectively and efficiently if consolidated under the plan of reorganization. The Governor shall also study the method by which federal and State funds and grants, including the Juvenile Accountability Incentive Block Grants, are distributed to the local level to determine whether those functions should be consolidated under the plan of reorganization, whether priority should be given to funding certain programs in an effort to develop those programs statewide, and whether matching funds should be required from local governments as a prerequisite to obtaining State funds.

The plan of reorganization shall include the following:

- (1) The organizational structure of the new department if the creation of a new department is recommended, or, if consolidation of the Divisions within an existing department is recommended, the organizational structure of the division or divisions and a summary of any central administrative office support given to the division or divisions. The



plan shall include a statement of the total personnel positions for management, administration, and programs and the reporting relationships of those positions.

- (2) The proposed budget for fiscal year 2000-2001 for the new department, or the existing department and consolidated division or divisions within that department, including any proposed new positions, position reclassifications, or changes to salary structure of personnel.
- (3) Any proposal to consolidate any existing agency division, council, or program, other than the Division of Youth Services or the Juvenile Services Division, that provides services to and treatment of juveniles within the new department or new division or divisions.
- (4) A written statement of all options of reorganization considered by the Governor, a summary of why those options were not adopted, and an explanation of how the recommended organization and management structure will result in the most effective and efficient delivery of juvenile services and programs.
- (5) Any legislative proposals required to provide services to and treatment of juveniles more efficiently and effectively and any proposals to consolidate or expand office space, including the location and expected cost of the proposal.

All departments, divisions, councils, and programs from which the Governor may require information or assistance in developing the plan of reorganization shall cooperate with the Governor.

On or before April 1, 2000, the Governor shall report the plan of reorganization and funding requirements that are required to implement the plan of reorganization to the General Assembly. The plan of reorganization developed pursuant to this section shall not become effective until it is approved by the General Assembly.

Section 4. (a) G.S. 7A-343.1 reads as rewritten:

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

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

|  |    |
|--|----|
| Governor, Office of the                          | 1  |
| Lieutenant Governor, Office of the               | 1  |
| Secretary of State, Department of the            | 2  |
| State Auditor, Department of the                 | 1  |
| Treasurer, Department of the State               | 1  |
| Superintendent of Public Instruction             | 1  |
| Office of the Attorney General                   | 11 |
| State Bureau of Investigation                    | 1  |
| Agriculture and Consumer Services, Department of | 1  |
| Labor, Department of                             | 1  |

|  |                      |
|--|----------------------|
| Insurance, Department of                           | 1                    |
| Budget Bureau, Department of Administration        | 1                    |
| Property Control, Department of Administration     | 1                    |
| State Planning, Department of Administration       | 1                    |
| Environment and Natural Resources, Department of   | 1                    |
| Revenue, Department of                             | 1                    |
| Health and Human Services, Department of           | 1                    |
| <u>Juvenile Justice, Office of</u>                 | <u>1</u>             |
| Commission for the Blind                           | 1                    |
| Transportation, Department of                      | 1                    |
| Motor Vehicles, Division of                        | 1                    |
| Utilities Commission                               | 8                    |
| Industrial Commission                              | 11                   |
| State Personnel Commission                         | 1                    |
| Office of State Personnel                          | 1                    |
| Office of Administrative Hearings                  | 2                    |
| Community Colleges, Department of                  | 38                   |
| Employment Security Commission                     | 1                    |
| Commission of Correction                           | 1                    |
| Parole Commission                                  | 1                    |
| Archives and History, Division of                  | 1                    |
| Crime Control and Public Safety, Department of     | 2                    |
| Cultural Resources, Department of                  | 3                    |
| Legislative Building Library                       | 2                    |
| Justices of the Supreme Court                      | 1 ea.                |
| Judges of the Court of Appeals                     | 1 ea.                |
| Judges of the Superior Court                       | 1 ea.                |
| Clerks of the Superior Court                       | 1 ea.                |
| District Attorneys                                 | 1 ea.                |
| Emergency and Special Judges of the Superior Court | 1 ea.                |
| Supreme Court Library                              | AS MANY AS REQUESTED |
| Appellate Division Reporter                        | 1                    |
| University of North Carolina, Chapel Hill          | 71                   |
| University of North Carolina, Charlotte            | 1                    |
| University of North Carolina, Greensboro           | 1                    |
| University of North Carolina, Asheville            | 1                    |
| North Carolina State University, Raleigh           | 1                    |
| Appalachian State University                       | 1                    |
| East Carolina University                           | 1                    |
| Fayetteville State University                      | 1                    |
| North Carolina Central University                  | 17                   |
| Western Carolina University                        | 1                    |
| Duke University                                    | 17                   |
| Davidson College                                   | 2                    |

|   |       |
|---|-------|
| Wake Forest University                                | 25    |
| Lenoir Rhyne College                                  | 1     |
| Elon College  | 1     |
| Campbell University                                   | 25    |
| Federal, Out-of-State and Foreign Secretary of State  | 1     |
| Secretary of Defense                                  | 1     |
| Secretary of Health, Education and Welfare            | 1     |
| Secretary of Housing and Urban Development            | 1     |
| Secretary of Transportation                           | 1     |
| Attorney General                                      | 1     |
| Department of Justice                                 | 1     |
| Internal Revenue Service                              | 1     |
| Veterans' Administration                              | 1     |
| Library of Congress                                   | 5     |
| Federal Judges resident in North Carolina             | 1 ea. |
| Marshal of the United States Supreme Court            | 1     |
| Federal District Attorneys resident in North Carolina | 1 ea. |
| Federal Clerks of Court resident in North Carolina    | 1 ea. |
| Supreme Court Library exchange list                   | 1     |

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

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

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

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

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

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

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

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

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

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

For the terms of one year: one member from subdivision (1) of subsection (a), serving as a police chief; three members from subdivision (2) of subsection (a), one serving as a police official, and two criminal justice officers; one member from subdivision (4) of subsection (a), appointed by the North Carolina Law-Enforcement

Training Officers' Association; and two members from subdivision (5) of subsection (a), one appointed by the Governor and one appointed by the Attorney General.

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

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

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

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

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

(d) G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

- (1) Counties and municipalities.
- (2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.
- (3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.
- (4) The State hospitals for the mentally ill.
- (5) The Department of Health and Human Services.

- (6) The North Carolina School for the Blind at Raleigh.
- (6a) The Office of Juvenile Justice.
- (7) The North Carolina Schools for the Deaf.
- (8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.
- (9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.
- (10) Child-caring institutions or orphanages receiving State aid.
- (11) Highlands School in Macon County.
- (12) The North Carolina State Fair.
- (13) Rural electric memberships corporations.
- (13a) State Farm Operations Commission.
- (13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.
- (13c) The Western North Carolina Agricultural Center.
- (14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of

State contracts and which lease shall be for a term of not less than one year and not more than five years.

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

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

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

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

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

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

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

(e) G.S. 66-58(c) reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

- (1) The sale of products of experiment stations or test farms.
- (2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.

- (3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase 'operation of endowment funds' shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of the stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.
- (4) The operation of lunch counters by the Department of Health and Human Services as blind enterprises of the type operated on January 1, 1951, in State buildings in the City of Raleigh.
- (5) The operation of a snack bar and cafeteria in the State Legislative Building.
- (6) The maintenance by the prison system authorities of eating and sleeping facilities at units of the State prison system for prisoners and for members of the prison staff while on duty, or the maintenance by the highway system authorities of eating and sleeping facilities for working crews on highway construction or maintenance when actually engaged in such work on parts of the highway system.
- (7) The operation by penal, correctional or facilities operated by the Department of Health and Human ~~Services~~ Services, the Office of Juvenile Justice, or by the Department of Agriculture and Consumer Services, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting the inmates or clients, and other bona fide visitors.
- (8) The sale by the Department of Agriculture and Consumer Services of livestock, poultry and publications in keeping with its present livestock and farm program.
- (9) The operation by the public schools of school cafeterias.



- (9a) The use of a public school bus or public school activity bus for a purpose allowed under G.S. 115C-242 or the use of a public school activity bus for a purpose authorized by G.S. 115C-247.
- (10) Sale by any State correctional or other institution of farm, dairy, livestock or poultry products raised or produced by it in its normal operations as authorized by the act creating it.
- (11) The sale of textbooks, library books, forms, bulletins, and instructional supplies by the State Board of Education, State Department of Public Instruction, and local school authorities.
- (12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.
- (13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of the management program.
- (14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.
- (15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State.
- (16) The performance by the Department of Transportation of dredging services for a unit of local government.
- (17) The sale by the State Board of Elections to political committees and candidate committees of computer software designed by or for the State Board of Elections to provide a uniform system of electronic filing of the campaign finance reports required by Article 22A of Chapter 163 of the General Statutes and to facilitate the State Board's monitoring of compliance with that Article. This computer software for electronic filing of campaign finance reports shall not exceed a cost of one hundred dollars (\$100.00) to any political committee or candidate committee without the State Board of Elections first notifying in writing the Joint Legislative Commission on Governmental Operations.
- (18) The leasing of no more than 50 acres within the North Carolina Zoological Park by the Department of Environment and Natural Resources to the North Carolina Zoological Society for the maintenance or operation, pursuant to a contract or otherwise, of an exhibition center, theater, conference center, and associated restaurants and lodging facilities."

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

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

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

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

(b) When requested by the Department of Health and Human ~~Services~~ Services or the Office of Juvenile Justice, the North Carolina Department of Justice may provide to the Department of ~~Health and Human Services or Office~~ a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the Department of ~~Health and Human Services or Office~~ shall provide to the Department of Justice a form consenting to the check signed by the covered person to be checked and any additional information required by the

Department of Justice. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the ~~Department of Health and Human Services or Office~~ shall provide to the North Carolina Department of Justice the fingerprints of the covered person to be checked, any additional information required by the Department of Justice, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Office of Juvenile Justice shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

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

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

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the Office of Juvenile Justice may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information

required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

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

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

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

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

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

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

All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Health and Human ~~Services~~. Services, the Office of Juvenile Justice, and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Health and Human ~~Services~~. Services, the Office of Juvenile Justice, and the Department of Correction and their divisions and agencies. However, with respect to children with special needs who are residents or patients of any state-operated or state-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Office of Juvenile Justice, the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Health and Human ~~Services~~. Services, the

Office of Juvenile Justice, and the Department of Correction for the provision of special education and related services and the power to review, revise and approve ~~said Departments'~~ any plans for special education and related services to those residents.

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

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

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

- (1) A census of the children with special needs in the State, as required by subsection (j) of this section;
- (2) A procedure for diagnosis and evaluation of each ~~such~~ child;
- (3) An inventory of the personnel and facilities available to provide special education for ~~such~~ these children;
- (4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;
- (5) Standards for the education of children with special needs;
- (6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and
- (7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.

(c) The Board shall annually submit amendments to or revisions of the plan required by subsection (b) to the Governor and General Assembly and make it available for public comment pursuant to subdivision (1) and for public distribution no less than

30 days before January 15 of each year. All such submissions shall set forth in detail the progress made in the implementation of the plan.

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

- (1) The qualifications of and standards for certification of teachers, teacher assistants, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;
- (2) Minimum standards for the individualized educational program for all children with special needs other than for the pregnant children, and for the educational program for the pregnant children, who receive special education and related services; and
- (3) ~~Such~~ Any other rules ~~or regulations~~ as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the Departments of Health and Human Services and Correction and the Office of Juvenile Justice shall be involved in the development of the standards outlined under this subsection.

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

- (1) A statement of the extent to which the required education and services will be provided directly by the agency;
- (2) A statement of the extent to which standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2) are being met by the agency; and
- (3) The means by which the agency will contract to provide, at levels meeting standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2), all special education and related services not provided directly by it or by the State.

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

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

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

- (1) Establishment of classes, other programs of instruction, curricula, facilities, equipment, and special services for children with special needs; and
- (2) Utilization and professional development of teachers and other personnel working with children with special needs.

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

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

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

The census shall include the number of children identified and suspected with special needs, their age, the nature of their disability, their county or city of residence, their local school administrative unit residence, whether they are being provided special educational or related services and if so by what department or agency, whether they are not being provided special education or related services, the identity of each department or agency having children with special needs in its care, custody, management, jurisdiction, control, or programs, the number of children with special needs being served by each department or agency, and such other information or data as the Board shall require. The census shall be of children with special needs between the ages of three and 21, inclusive.

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

(l) The Board shall provide for procedures assuring that in carrying out the requirements of this Article procedures are established for consultation with individuals involved in or concerned with the education of children with special needs, including

parents or guardians of such children, and there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, procedures, and rules or regulations required by this Article.

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

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

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

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

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

"(f) Each local educational agency shall prepare individualized educational programs for all children found to be children with special needs other than the pregnant children, and educational programs prescribed in subsection (h) of this section for the pregnant children. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timeliness set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Health and Human ~~Services, Services and the Office of Juvenile Justice,~~ the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent."



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

**"§ 115C-113.1. Surrogate parents.**

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

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

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

The board shall adopt rules and regulations to assure that:

- (1) There be no cost to the parents or guardian for the placement of a child in a private school, out-of-state school or a school in another local education agency if the child was so placed by the Board or by the appropriate local educational agency as the means of carrying out the requirement of this Article or any other applicable law requiring the provision of special education and related services to children within the State.
- (2) No child shall be placed by the Board or by the local educational agency in a private or out-of-state school unless the Board has determined that the school meets standards that apply to State and local educational agencies and that the child so placed will have all the rights he would have if served by a State or local educational agency.
- (3) If the placement of the child in a private school, out-of-state school or a school in another local educational agency determined by the Superintendent of Public Instruction to be the most cost-effective way to provide an appropriate education to that child and the child is not currently being educated by the Department of Health and Human ~~Services~~ Services, the Office of Juvenile Justice, or the Department of Correction, the State will bear a portion of the cost of the placement of the child. The local school administrative unit shall pay an amount equal to what it receives per pupil from the State Public School Fund and from other State and federal funds for children with special needs for that child. The State shall pay the full cost of any remainder up to a maximum of fifty percent (50%) of the total cost."

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

"(b) The Council shall consist of ~~18-23~~ members to be appointed as follows: five ex officio members; two members appointed by the Governor; two members of the Senate appointed by the President Pro Tempore; two members of the House of Representatives appointed by the Speaker of the House; and 12 members appointed by

the State Board of Education. Of those members of the Council appointed by the State Board one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The board shall promulgate rules or regulations to carry out this subsection.

Ex officio members of the Council shall be the following:

- (1) The Secretary of the Department of Health and Human Services or the Secretary's designee;
- (1a) A representative of the Office of Juvenile Justice, appointed by the Governor;
- (2) The Secretary of the Department of Correction or the Secretary's designee;
- (3) A representative from The University of North Carolina Planning Consortium for Children with Special Needs; and
- (4) The Superintendent of Public Instruction or the Superintendent's designee.

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

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

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

"(a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with special needs are authorized to enter into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A, Article 20, Part 1 of the General Statutes or into undertakings with a State agency such as the Office of Juvenile Justice or the Departments of Public Instruction, Health and Human Services, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for ~~such~~ these children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are most educationally appropriate to the children with special needs for whose benefit the undertaking is made, and provide ~~such~~ these services by or

in the local agency unit or State department, agency, or division located in the place most convenient to ~~such~~ these children."

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

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

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

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

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

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

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

**"§ 115D-1. Statement of purpose.**

The purposes of this Chapter are to provide for the establishment, organization, and administration of a system of educational institutions throughout the State offering courses of instruction in one or more of the general areas of two-year college parallel, technical, vocational, and adult education programs, to serve as a legislative charter for such institutions, and to authorize the levying of local taxes and the issuing of local bonds for the support thereof. The major purpose of each and every institution operating under the provisions of this Chapter shall be and shall continue to be the offering of vocational and technical education and training, and of basic, high school level, academic education needed in order to profit from vocational and technical education, for students who are high school graduates or who are beyond the compulsory age limit of the public school system and who have left the public schools, provided, juveniles of any age committed to the ~~Division of Youth Services of the Department of Health and Human Services~~ Office of Juvenile Justice by a court of

competent jurisdiction may, if approved by the director of the training school to which they are assigned, take courses offered by institutions of the system if they are otherwise qualified for admission."

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

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Adult Probation and Parole and employees of the ~~Division of Youth Services of the Department of Health and Human Services~~ Office of Juvenile Justice required to be certified pursuant to Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the ~~Division of Youth Services of the Department of Health and Human Services~~ Office of Juvenile Justice by a court of competent jurisdiction, prison inmates, and members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered pursuant to Article 5 of Chapter 127A of the General Statutes. Provided further, tuition shall be waived for senior citizens attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges in accordance with G.S. 115D-20(4) and this section."

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

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

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

- b. Who are involuntarily institutionalized or otherwise placed in residential programs, including:
1. Minors who are mentally ill as defined by G.S. 122C-3(21) and who are admitted for evaluation or treatment to a treatment facility under Article 5 of Chapter 122C of the General Statutes or are presented for admission and denied due to their behaviors or handicapping conditions;
  2. Minors who are referred to an area mental health, developmental disabilities, and substance abuse authority pursuant to ~~G.S. 7A-647(3)~~ G.S. 7B-903 for whom residential treatment or placement is recommended;
  3. Minors who are placed in residential programs as a condition of probation pursuant to ~~G.S. 7A-649(8)~~; G.S. 7B-2506;
  4. Minors who are ordered to a professional residential treatment program pursuant to ~~G.S. 7A-649(6)~~; G.S. 7B-2506; and
  5. Minors committed to the custody of the ~~Division of Youth Services~~ Office of Juvenile Justice, pursuant to ~~G.S. 7A-649(10)~~; G.S. 7B-2506; and
- c. For whom the State has not provided appropriate treatment and educational programs."

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

"(b1) The Secretary shall cooperate with the State Board of Education and the Office of Juvenile Justice in coordinating the responsibilities of the Department of Health and Human Services, the State Board of Education, the Office of Juvenile Justice, and the Department of Public Instruction for adolescent substance abuse programs. The Department of Health and Human Services, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in cooperation with the Office of Juvenile Justice, shall be responsible for intervention and treatment in non-school based programs. The State Board of Education and the Department of Public ~~Instruction~~ Instruction, in consultation with the Office of Juvenile Justice, shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs."

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

"(a) The area authority shall:

- (1) Engage in comprehensive planning, budgeting, implementing, and monitoring of community-based mental health, developmental disabilities, and substance abuse services;
- (2) Provide services to clients in the catchment ~~area~~; area, including clients committed to the custody of the Office of Juvenile Justice;

- (3) Determine the needs of the area authority's clients and coordinate with the Secretary and with the Office of Juvenile Justice the provision of services to clients through area and State facilities;
- (4) Develop plans and budgets for the area authority subject to the approval of the Secretary;
- (5) Assure that the services provided by the area authority meet the rules of the Commission and Secretary;
- (6) Comply with federal requirements as a condition of receipt of federal grants; and
- (7) Appoint an area director, chosen through a search committee on which the Secretary of the Department of Health and Human Services or the Secretary's designee serves as a nonvoting member."
- (u) G.S. 143-138(g) reads as rewritten:

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

| OFFICIAL OR AGENCY                                    | NUMBER OF COPIES |
|---|------------------|
| State Departments and Officials                       |                  |
| Governor .....  | 1                |
| Lieutenant Governor .....                             | 1                |
| Auditor .....   | 1                |
| Treasurer .....                                       | 1                |
| Secretary of State .....                              | 1                |
| Superintendent of Public Instruction .....            | 1                |
| Attorney General (Library).....                       | 1                |
| Commissioner of Agriculture .....                     | 1                |
| Commissioner of Labor .....                           | 1                |
| Commissioner of Insurance .....                       | 1                |
| Department of Environment and Natural Resources.....  | 1                |
| Department of Health and Human Services .....         | 1                |
| <u>Office of Juvenile Justice</u> .....               | <u>1</u>         |
| Board of Transportation.....                          | 1                |
| Utilities Commission .....                            | 1                |
| Department of Administration.....                     | 1                |
| Clerk of the Supreme Court.....                       | 1                |
| Clerk of the Court of Appeals.....                    | 1                |
| Clerk of the Superior Court .....                     | 1 each           |
| Department of Cultural Resources [State Library]..... | 5                |
| Supreme Court Library .....                           | 2                |
| Legislative Library.....                              | 1                |

Schools

|   |         |
|---|---------|
| All state-supported colleges and universities<br>in the State of North Carolina ..... | *1 each |
| Local Officials   |         |
| Clerks of the Superior Courts .....   | 1 each  |
| Chief Building Inspector of each incorporated municipality or county .....            | 1       |

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

(v) G.S. 143B-138.1(a) reads as rewritten:

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

- (1) Division of Aging.
- (2) Division of Services for the Blind.
- (3) Division of Medical Assistance.
- (4) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (5) Division of Social Services.
- (6) Division of Facility Services.
- (7) Division of Vocational Rehabilitation.
- ~~(8) Division of Youth Services.~~
- (9) Division of Services for the Deaf and the Blind.
- (10) Office of Economic Opportunity.
- (11) Division of Child Development.
- (12) Office of Rural Health."

(w) G.S. 143B-150.7(b) reads as rewritten:

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

- (1) ~~Five-Four~~ members representing the Department of Health and Human Services, one of whom shall be the Assistant Secretary for Children and Family, one of whom shall represent the Division of Social Services, ~~one of whom shall represent the Division of Youth Services,~~ one of whom shall represent the Division of Mental Health,

Developmental Disabilities, and Substance Abuse Services, and one of whom shall represent the Division of Maternal and Child Health;

- (1a) One member representing the Office of Juvenile Justice;
- (2) Two members, one from each of the following: the Administrative Office of the Courts and the Department of Public Instruction;
- (3) One member who represents the Juvenile Justice Planning Committee of the Governor's Crime Commission, and one member appointed at large;
- (4) One member who is a district court judge certified by the Administrative Office of the Courts to hear juvenile cases;
- (5) One member representing the schools of social work of The University of North Carolina;
- (6) Two members, one of whom is a provider of family preservation services, and one of whom is a consumer of family preservation services; and
- (7) Three members who represent county-level associations; one of whom represents the Association of County Commissioners, one of whom represents the Association of Directors of Social Services, and one of whom represents the North Carolina Council of Mental Health, Developmental Disabilities, and Substance Abuse Services.

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

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

**"§ 143B-152.6. Cooperation of State and local agencies.**

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

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

**"§ 143B-152.14. Cooperation of State and local agencies.**

All agencies of the State and local government, including the Office of Juvenile Justice, departments of social services, health departments, local mental health, mental retardation, and substance abuse authorities, court personnel, law enforcement agencies,



The University of North Carolina, the community college system, and cities and counties, shall cooperate with the Department of Health and Human Services, and local nonprofit corporations that receive grants in coordinating the program at the State level and in implementing the program at the local level. The Secretary of Health and Human Services, after consultation with the Superintendent of Public Instruction, shall develop a plan for ensuring the cooperation of State agencies and local agencies and encouraging the cooperation of private entities, especially those receiving State funds, in the coordination and implementation of the program."

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

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

- a. For the programs of public assistance established by federal legislation and by Article 2 of Chapter 108A of the General Statutes of the State of North Carolina with the exception of the program of medical assistance established by G.S. 108A-25(b);
- b. To achieve maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life and to help recipients of public assistance obtain self-support and self-care;
- c. For the placement and supervision of dependent juveniles and of delinquent children—juveniles who are placed in the custody of the Office of Juvenile Justice, and payment of necessary costs of foster home care for needy and homeless children as provided by G.S. 108A-48; and
- d. For the payment of State funds to private child-placing agencies as defined in G.S. 131D-10.2(4) and residential child care facilities as defined in G.S. 131D-10.2(13) for care and services provided to children who are in the custody or placement responsibility of a county department of social services."

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

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

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

(1) The voting members shall be:

- a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, and the Superintendent of Public Instruction;

- b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;
  - c. A defense attorney, three sheriffs (one of whom shall be from a 'high crime area'), three police executives (one of whom shall be from a 'high crime area'), six citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one representative of a 'private juvenile delinquency program,' and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;
  - d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, ~~the Director of the Division of Youth Services of the Department of Health and Human Services, the Administrator for Juvenile Services of the Administrative Office of the Courts, a~~ representative of the Office of Juvenile Justice, the Director of the Division of Prisons and the Director of the Division of Adult Probation and ~~Paroles-Parole.~~
- (b) The membership of the Commission shall be selected as follows:
- (1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of Adult Probation and ~~Paroles-Parole,~~ the Director of the Division of Youth Services, the Administrator for Juvenile Services of the Administrative Office of the Courts, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.
  - (2) The following members shall be appointed by the Governor: the representative of the Office of Juvenile Justice, the district attorney, the defense attorney, the three sheriffs, the three police executives, the six citizens, the three county commissioners or county officials, the three mayors or municipal officials.

- (3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.
- (4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).
- (5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed pursuant to subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

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

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

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

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

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House

Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

| Agency or Institution   | Session<br>Laws | Assembly<br>Journals |
|---|-----------------|----------------------|
| Governor, Office of the   | 3               | 2                    |
| Lieutenant Governor, Office of the  | 1               | 1                    |
| Secretary of State, Department of the   | 3               | 3                    |
| Auditor, Department of the State  | 3               | 1                    |
| Treasurer, Department of the State  | 3               | 1                    |
| Local Government Commission   | 2               | 0                    |
| State Board of Education  | 1               | 0                    |
| Department of Public Instruction  | 3               | 1                    |
| Controller  | 1               | 0                    |
| Technical Assistance Centers  | 1 ea.           | 0                    |
| Department of Community Colleges  | 3               | 1                    |
| Justice, Department of  |                 |                      |
| Office of the Attorney General  | 25              | 3                    |
| Budget Bureau (Administration)  | 1               | 0                    |
| Property Control (Administration)   | 1               | 1                    |
| State Bureau of Investigation   | 1               | 0                    |
| Agriculture and Consumer Services,<br>Department of                                     | 3               | 1                    |
| Labor, Department of  | 5               | 1                    |
| Insurance, Department of  | 5               | 1                    |
| Administration, Department of   | 1               | 1                    |
| Budget Bureau   | 2               | 1                    |
| Controller  | 1               | 0                    |
| Property Control  | 1               | 0                    |
| Purchase and Contract   | 2               | 0                    |
| Policy and Development  | 1               | 0                    |
| Veterans Affairs Commission   | 1               | 0                    |
| Environment and Natural Resources,<br>Department of                                     | 6               | 0                    |
| Wildlife Resources Commission   | 2               | 0                    |
| Revenue, Department of  | 5               | 1                    |
| Health and Human Services, Department of  | 6               | 0                    |
| Mental Health, Developmental Disabilities,<br>and Substance Abuse Services, Division of | 1               | 0                    |
| Social Services, Division of  | 3               | 0                    |
| Facilities Services, Division of  | 1               | 0                    |
| <del>Youth Services, Division of</del>  | <del>1</del>    | <del>0</del>         |

|   |          |          |   |
|---|----------|----------|---|
| Hospitals and Institutions                            | 1 ea.    | 0        |   |
| <u>Juvenile Justice, Office of</u>                    | <u>3</u> | <u>0</u> |   |
| Transportation, Department of                         | 1        | 0        |   |
| Board of Transportation                               | 3        | 0        |   |
| Motor Vehicles, Division of                           | 1        | 0        |   |
| Commerce, Department of                               | 1        | 0        |   |
| Economic Development, Division of                     | 2        | 0        |   |
| State Ports Authority                                 | 1        | 0        |   |
| Alcoholic Beverage Control Commission, North Carolina | 2        | 0        |   |
| Banking Commission                                    | 2        | 0        |   |
| Utilities Commission                                  | 8        | 1        |   |
| Industrial Commission                                 | 7        | 0        |   |
| Labor Force Development Council                       | 1        | 0        |   |
| Milk Commission                                       | 5        | 0        |   |
| Employment Security Commission                        | 1        | 1        |   |
| Correction, Department of                             | 1        | 0        |   |
| Department of Correction                              | 2        | 0        |   |
| Parole Commission                                     | 2        | 0        |   |
| State Prison  | 1        | 0        |   |
| Correctional Institutions                             | 1 ea.    | 0        |   |
| Cultural Resources, Department of                     | 1        | 0        |   |
| Archives and History, Division of                     | 5        | 1        |   |
| State Library   | 5        | 5        |   |
| Publications Division                                 | 1        | 1        |   |
| Crime Control and Public Safety, Department of        |          | 2        | 1 |
| North Carolina Crime Commission                       | 1        | 0        |   |
| Adjutant General                                      | 2        | 0        |   |
| Elections, State Board of                             | 2        | 0        |   |
| Office of Administrative Hearings                     | 2        | 0        |   |
| State Personnel Commission                            | 1        | 0        |   |
| Office of State Personnel                             | 1        | 1        |   |
| Legislative Branch                                    |          |          |   |
| State Senators  | 1 ea.    | 1 ea.    |   |
| State Representatives                                 | 1 ea.    | 1 ea.    |   |
| Principal Clerk – Senate                              | 1        | 1        |   |
| Principal Clerk – House                               | 1        | 1        |   |
| Reading Clerk – Senate                                | 1        | 1        |   |
| Reading Clerk – House                                 | 1        | 1        |   |
| Sergeant at Arms – House                              | 1        | 1        |   |
| Sergeant at Arms – Senate                             | 1        | 1        |   |
| Enrolling Clerk                                       | 1        | 0        |   |
| Engrossing Clerk                                      | 1        | 0        |   |
| Indexer of the Laws                                   | 1        | 0        |   |
| Legislative Building Library                          | 35       | 15       |   |

Judicial System

|  |       |       |
|--|-------|-------|
| Justices of the Supreme Court                      | 1 ea. | 1 ea. |
| Judges of the Court of Appeals                     | 1 ea. | 1 ea. |
| Judges of the Superior Court                       | 1 ea. | 0     |
| Emergency and Special Judges of the Superior Court | 1 ea. | 0     |
| District Court Judges                              | 1 ea. | 0     |
| District Attorneys                                 | 1 ea. | 0     |
| Clerk of the Supreme Court                         | 1     | 1     |
| Clerk of the Court of Appeals                      | 1     | 1     |
| Administrative Office of the Courts                | 4     | 1     |

AS MANY AS REQUESTED

Colleges and Universities

|  |    |    |
|--|----|----|
| The University of North Carolina System              |    |    |
| Administrative Offices                               | 3  | 0  |
| University of North Carolina, Chapel Hill            | 65 | 25 |
| University of North Carolina, Charlotte              | 3  | 1  |
| University of North Carolina, Greensboro             | 3  | 1  |
| University of North Carolina, Asheville              | 2  | 1  |
| University of North Carolina, Wilmington             | 2  | 1  |
| North Carolina State University, Raleigh             | 5  | 3  |
| Appalachian State University                         | 2  | 1  |
| East Carolina University                             | 3  | 2  |
| Elizabeth City State University                      | 2  | 1  |
| Fayetteville State University                        | 2  | 1  |
| North Carolina Agricultural and Technical University | 2  | 1  |
| North Carolina Central University                    | 5  | 5  |
| Western Carolina University                          | 2  | 1  |
| University of North Carolina, Pembroke               | 2  | 1  |
| Winston-Salem State University                       | 2  | 1  |
| North Carolina School of the Arts                    | 1  | 1  |
| Private Institutions                                 |    |    |
| Duke University                                      | 6  | 6  |
| Davidson College                                     | 3  | 2  |
| Wake Forest University                               | 5  | 5  |
| Lenoir Rhyne College                                 | 1  | 1  |
| Elon College   | 1  | 1  |
| Guilford College                                     | 1  | 1  |
| Campbell University                                  | 5  | 5  |
| Wingate College                                      | 1  | 1  |
| Pfeiffer College                                     | 1  | 1  |
| Barber Scotia College                                | 1  | 1  |
| Barton College                                       | 1  | 1  |
| Shaw University                                      | 1  | 1  |

|  |       |       |
|--|-------|-------|
| St. Augustine's College                    | 1     | 1     |
| <del>J.</del> Johnson C. Smith University  | 1     | 1     |
| Belmont Abbey College                      | 1     | 1     |
| Bennett College                            | 1     | 1     |
| Catawba College                            | 1     | 1     |
| Gardner-Webb College                       | 1     | 1     |
| Greensboro College                         | 1     | 1     |
| High Point <del>College</del> University   | 1     | 1     |
| Livingstone College                        | 1     | 1     |
| Mars Hill College                          | 1     | 1     |
| Meredith College                           | 1     | 1     |
| Methodist College                          | 1     | 1     |
| North Carolina Wesleyan College            | 1     | 1     |
| Queens College                             | 1     | 1     |
| Sacred Heart College                       | 1     | 1     |
| St. Andrews Presbyterian College           | 1     | 1     |
| Salem College                              | 1     | 1     |
| Warren Wilson College                      | 1     | 1     |
| County and Local Officials                 |       |       |
| Clerks of the Superior Court               | 1 ea. | 1 ea. |
| Register of Deeds                          | 1 ea. | 1 ea. |
| Federal, Out-of-State and Foreign          |       |       |
| Secretary to the President                 | 1     | 0     |
| Secretary of State                         | 1     | 1     |
| Secretary of Defense                       | 1     | 0     |
| Secretary of Agriculture                   | 1     | 0     |
| Secretary of the Interior                  | 1     | 0     |
| Secretary of Labor                         | 1     | 1     |
| Secretary of Commerce                      | 1     | 1     |
| Secretary of the Treasury                  | 1     | 0     |
| Secretary of Health, Education and Welfare | 1     | 0     |
| Secretary of Housing and Urban Development | 1     | 0     |
| Secretary of Transportation                | 1     | 0     |
| Attorney General                           | 1     | 0     |
| Postmaster General                         | 1     | 0     |
| Bureau of Census                           | 1     | 0     |
| Bureau of Public Roads                     | 1     | 0     |
| Department of Justice                      | 1     | 0     |
| Department of Internal Revenue             | 1     | 0     |
| Veterans' Administration                   | 1     | 0     |
| Farm Credit Administration                 | 1     | 0     |
| Securities and Exchange Commission         | 1     | 0     |
| Social Security Board                      | 1     | 0     |
| Environmental Protection Agency            | 1     | 0     |

|   |       |   |
|---|-------|---|
| Library of Congress                                   | 8     | 2 |
| Federal Judges resident in North Carolina             | 1 ea. | 0 |
| Federal District Attorneys resident in North Carolina | 1 ea. | 0 |
| Marshal of the United States Supreme Court            | 1     | 0 |
| Federal Clerks of Court resident in North Carolina    | 1 ea. | 0 |
| Supreme Court Library exchange list                   | 1 ea. | 0 |

One copy of the Session Laws shall be furnished the head of any department of State government created in the future.

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

(cc) G.S. 153A-217 reads as rewritten:

**"§ 153A-217. Definitions.**

Unless otherwise clearly required by the context, the words and phrases defined in this section have the meanings indicated when used in this Part:

- (1) 'Commission' means the Social Services Commission.
- (2) 'Secretary' means the Secretary of Health and Human Services.
- (3) 'Department' means the Department of Health and Human Services.
- (4) 'Governing body' means the governing body of a county or city or the policy-making body for a district or regional confinement facility.
- (5) 'Local confinement facility' includes a county or city jail, a local lockup, a regional or district jail, a juvenile detention ~~home,~~ facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences except that it shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A.
- (6) 'Prisoner' includes any person, adult or juvenile, confined or detained in a confinement facility.
- (7) 'Unit,' 'unit of local government,' or 'local government' means a county or city."

(dd) G.S. 153A-218 reads as rewritten:

**"§ 153A-218. County confinement facilities.**

A county may establish, acquire, erect, repair, maintain, and operate local confinement facilities and may for these purposes appropriate funds not otherwise limited as to use by law. A juvenile detention facility may be located in the same facility as a county jail provided that the juvenile detention facility meets the requirements of this Article and G.S. 147-33.40."

**PART III. RECODIFICATION OF THE JUVENILE CODE**

Section 5. Subchapter XI, Articles 41 through 59 of Chapter 7A of the General Statutes, the North Carolina Juvenile Code, Articles 24B and 39 of Chapter 7A



of the General Statutes, Articles 2A, 4, 4A, and 10 of Chapter 110 of the General Statutes, Article 62 of Chapter 143 of the General Statutes, and G.S. 7A-289.13 are repealed.

Section 6. The General Statutes are amended by adding a new Chapter to read:

"Chapter 7B.

"Juvenile Code.

"SUBCHAPTER I. ABUSE, NEGLECT, DEPENDENCY.

"ARTICLE 1.

"Purposes; Definitions.

**"§ 7B-100. Purpose.**

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

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

**"§ 7B-101. Definitions.**

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

- (1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
  - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
  - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
  - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
  - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape as provided in G.S. 14-27.2; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense as provided in G.S. 14-27.4; second degree sexual offense as provided in G.S. 14-27.5; sexual act by a custodian as provided

- in G.S. 14-27.7; crime against nature as provided in G.S. 14-177; incest as provided in G.S. 14-178 and G.S. 14-179; preparation of obscene photographs, slides, or motion pictures of the juvenile as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile as provided in G.S. 14-202.1, regardless of the age of the parties;
- e. Creates or allows to be created serious emotional damage to the juvenile. Serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or
  - f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.
- (2) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. 'Caretaker' also means any person who has the responsibility for the care of a juvenile in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only.
- (3) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (4) Community-based program. – A program providing nonresidential or residential treatment to a juvenile in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

- (5) Court. – The district court division of the General Court of Justice.
- (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (7) Dependent juvenile. – A juvenile in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement.
- (8) Director. – The director of the county department of social services in the county in which the juvenile resides or is found or the director's representative as authorized in G.S. 108A-14.
- (9) District. – Any district court district as established by G.S. 7A-133.
- (10) Judge. – Any district court judge.
- (11) Judicial district. – Any district court district as established by G.S. 7A-133.
- (12) Juvenile. – A person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States.
- (13) Neglected juvenile. – A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.
- (14) Petitioner. – The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.
- (15) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (16) Reasonable efforts. – The diligent use of preventive or reunification services by a department of social services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time.
- (17) Safe home. – A home in which the juvenile is not at substantial risk of physical or emotional abuse or neglect.
- (18) Shelter care. – The temporary care of a juvenile in a physically unrestricting facility pending court disposition.

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

"ARTICLE 2.

"Jurisdiction.

**"§ 7B-200. Jurisdiction.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter;
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered;
- (3) Proceedings to determine whether a juvenile should be emancipated;
- (4) Proceedings to terminate parental rights;
- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services;
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7B-302; and
- (7) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes.

(b) The court shall have jurisdiction over the parent or guardian of a juvenile who has been adjudicated abused, neglected, or dependent, as provided by G.S. 7B-904, provided the parent or guardian has been properly served with summons pursuant to G.S. 7B-406.

**"§ 7B-201. Retention of jurisdiction.**

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

"ARTICLE 3.

"Screening of Abuse and Neglect Complaints.

**"§ 7B-300. Protective services.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon filing of the petition, the court shall schedule a hearing to be held not less than five days after service of the petition and summons on the respondent. Service of the petition and summons and notice of hearing shall be made as provided by the Rules of Civil Procedure on the respondent; the juvenile's parent, guardian, custodian, or caretaker; and any other person determined by the court to be a necessary party. If at the hearing on the petition the court finds by clear, cogent, and convincing evidence that the respondent, without lawful excuse, has obstructed or interfered with an investigation required by G.S. 7B-302, the court may order the respondent to cease such obstruction or interference. The burden of proof shall be on the petitioner.

(d) If the director has reason to believe that the juvenile is in need of immediate protection or assistance, the director shall so allege in the petition and may seek an ex parte order from the court. If the court, from the verified petition and any inquiry the court makes of the director, finds probable cause to believe both that the juvenile is at risk of immediate harm and that the respondent is obstructing or interfering with the director's ability to investigate to determine the juvenile's condition, the court may enter an ex parte order directing the respondent to cease such obstruction or interference. The order shall be limited to provisions necessary to enable the director to conduct an investigation sufficient to determine whether the juvenile is in need of immediate protection or assistance. Within 10 days after the entry of an ex parte order under this subsection, a hearing shall be held to determine whether there is good cause for the

continuation of the order or the entry of a different order. An order entered under this subsection shall be served on the respondent along with a copy of the petition, summons, and notice of hearing.

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

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

**"§ 7B-304. Evaluation for court.**

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

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

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

**"§ 7B-306. Review by prosecutor.**

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

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

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

If the director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent,



guardian, custodian, or caretaker, the director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

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

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

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

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

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

(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

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

- (1) If the investigation reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or alleviate physical distress or to prevent the juvenile from suffering serious physical injury, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian, or caretaker cannot be reached or, upon request, will not consent to the treatment within the facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.
- (2) In all cases except those described in subdivision (1) above, the director shall conduct the investigation and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator, or that person's designee may ask the prosecutor to review this decision according to the provisions of G.S. 7B-305 and G.S. 7B-306.

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

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

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

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

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

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services inquiry or investigation, testifies in any judicial proceeding resulting from a protective services report or investigation, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action

provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

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

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

**"§ 7B-311. Central registry.**

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

**"ARTICLE 4.**

**"Venue; Petitions.**

**"§ 7B-400. Venue; pleading.**

A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. When a proceeding is commenced in a district other than that of the juvenile's residence, the court, on its own motion or upon motion of any party, may transfer the proceeding to the court in the district where the juvenile resides. A transfer under this section may be made at any time.

**"§ 7B-401. Pleading and process.**

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

**"§ 7B-402. Petition.**

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

Sufficient copies of the petition shall be prepared so that copies will be available for each parent if living separate and apart, the guardian, custodian, or caretaker, the

guardian ad litem, the social worker, and any person determined by the court to be a necessary party.

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

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

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

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

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

- (1) When the director of the department of social services requests a petition alleging a juvenile to be abused, neglected, or dependent, or
- (2) When the director of the department of social services requests a petition alleging the obstruction of or interference with an investigation required by G.S. 7B-302.

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

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

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

**"§ 7B-406. Issuance of summons.**

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons.

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

- (1) Notice of the nature of the proceeding;
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing;
- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State; and
- (4) Notice that the dispositional order or a subsequent order:
  - a. May remove the juvenile from the custody of the parent, guardian, or custodian.

- b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
- c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
- d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.

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

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

**"§ 7B-407. Service of summons.**

The summons shall be personally served upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

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

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

**"ARTICLE 5.**

**"Temporary Custody; Nonsecure Custody; Custody Hearings.**

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

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

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

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

- (1) Notify the juvenile's parent, guardian, custodian, or caretaker that the juvenile has been taken into temporary custody and advise the parent,

guardian, custodian, or caretaker of the right to be present with the juvenile until a determination is made as to the need for nonsecure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile.

- (2) Release the juvenile to the juvenile's parent, guardian, custodian, or caretaker if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- (3) The person having temporary custody shall communicate with the director of the department of social services who shall consider prehearing diversion. If the decision is made to file a petition, the director shall contact the judge or person delegated authority pursuant to G.S. 7B-502 for a determination of the need for continued custody.

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

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

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

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

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

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

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

- (1) The juvenile has been abandoned; or
- (2) The juvenile has suffered physical injury or sexual abuse; or
- (3) The juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, custodian, or caretaker has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection; or
- (4) The juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the medical treatment; or

- (5) The parent, guardian, custodian, or caretaker consents to the nonsecure custody order; or
- (6) The juvenile is a runaway and consents to nonsecure custody.

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

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

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

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

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

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

- (1) A licensed foster home or a home otherwise authorized by law to provide such care; or
- (2) A facility operated by the department of social services; or
- (3) Any other home or facility approved by the court and designated in the order.

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

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

(a) No juvenile shall be held under a nonsecure custody order for more than seven calendar days without a hearing on the merits or a hearing to determine the need for continued custody. A hearing on nonsecure custody conducted under this subsection may be continued for up to 10 business days with the consent of the juvenile's parent, guardian, or custodian and, if appointed, the juvenile's guardian ad litem. In addition, the court may require the consent of additional parties or may schedule the hearing on custody despite a party's consent to a continuance. In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7B-502, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if such session precedes the expiration of the applicable time period

set forth in this subsection: Provided, that if such session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

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

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

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

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

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

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

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

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



- (1) Inquire as to the identity and location of any missing parent. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that parent. The order may provide for specific efforts aimed at determining the identity and location of any missing parent;
- (2) Inquire as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter; and
- (3) Inquire as to whether there are other juveniles remaining in the home from which the juvenile was removed and, if there are, inquire as to the specific findings of the investigation conducted under G.S. 7B-302 and any actions taken or services provided by the director for the protection of the other juveniles.

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

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-501, 7B-503, and 7B-504 may be made by telephone when other means of communication are impractical. All written orders pursuant to telephonic communication shall bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization.

**"ARTICLE 6.**

**"Basic Rights.**

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

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

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

(a) When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to

be dependent, the court may appoint a guardian ad litem to represent the juvenile. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate at the end of two years. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the juvenile's legal rights through the dispositional phase of the proceedings, and after disposition when necessary to further the best interests of the juvenile. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court.

(b) The court may order the department of social services or the guardian ad litem to conduct follow-up investigations to ensure that the orders of the court are being properly executed and to report to the court when the needs of the juvenile are not being met. The court may also authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

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

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

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

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

An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 or G.S. 7B-602 pursuant to any other provision of the Juvenile Code shall be paid a reasonable fee fixed by the court in the same manner as fees for attorneys appointed in cases of indigency or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts. The court may require payment of the attorney or guardian ad litem fee from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to

pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. A person who does not comply with the court's order of payment may be punished for contempt as provided in G.S. 5A-21.

"ARTICLE 7.

"Discovery.

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

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

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

"ARTICLE 8.

"Hearing Procedures.

**"§ 7B-800. Amendment of petition.**

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

**"§ 7B-801. Adjudicatory hearing.**

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

**"§ 7B-802. Conduct of hearing.**

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

**"§ 7B-803. Continuances.**

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

**"§ 7B-804. Rules of evidence.**

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

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

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

**"§ 7B-806. Record of proceedings.**

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

**"§ 7B-807. Adjudication.**

If the court finds that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

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

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

"ARTICLE 9.

"Dispositions.

**"§ 7B-900. Purpose.**

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

**"§ 7B-901. Dispositional hearing.**

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

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

Nothing in this Article precludes the court from entering a consent order or judgment on a petition for abuse, neglect, or dependency when all parties are present.

the juvenile is represented by counsel, and all other parties are either represented by counsel or have waived counsel, and sufficient findings of fact are made by the court.

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

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

- (1) The court may dismiss the case or continue the case in order to allow the parent or others to take appropriate action.
- (2) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the court may:
  - a. Require that the juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, or by other personnel as may be available to the court, subject to conditions applicable to the parent or juvenile as the court may specify; or
  - b. Place the juvenile in the custody of a parent, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of the department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of the department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the court, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile, the director may, unless otherwise ordered by the court, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a court or the court's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent or guardian of the affected juvenile. If the director cannot obtain such consent, the director shall promptly notify the parent or guardian that care or treatment has been provided and shall give the parent frequent status reports on the circumstances of the juvenile. Upon request of a parent or guardian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be

made available to such parent or guardian by the director unless prohibited by G.S. 122C-53(d).

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

a. Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other treatment and who should pay the cost of the treatment. The county manager, or such person who shall be designated by the chairman of the county commissioners, of the juvenile's residence shall be notified of the hearing and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other treatment, the court shall permit the parent or other responsible persons to arrange for treatment. If the parent declines or is unable to make necessary arrangements, the court may order the needed treatment, surgery, or care, and the court may order the parent to pay the cost of the care pursuant to G.S. 7B-904. If the court finds the parent is unable to pay the cost of treatment, the court shall order the county to arrange for treatment of the juvenile and to pay for the cost of the treatment. The county department of social services shall recommend the facility that will provide the juvenile with treatment.

b. If the court believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent or guardian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that

purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by a court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

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

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

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

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

(d) Whenever legal custody of a juvenile is vested in someone other than the juvenile's parent, after due notice to the parent and after a hearing, the court may order that the parent pay a reasonable sum that will cover, in whole or in part, the support of the juvenile after the order is entered. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the

court places a juvenile in the custody of a county department of social services and if the court finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the State or federal government or any subdivision thereof.

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

**"§ 7B-905. Dispositional order.**

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

(b) A dispositional order under which a juvenile is removed from the custody of a parent or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court shall direct that the review hearing required by G.S. 7B-906 be held within six months of the date of the juvenile's placement in custody and, if practicable, shall set the date and time for the review hearing.

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

- (1) A finding that the juvenile's continuation in or return to the juvenile's home would be contrary to the juvenile's best interests; and
- (2) Findings as to whether reasonable efforts have been made to prevent or eliminate the need for placement of the juvenile in foster care. A finding that reasonable efforts were not made shall not preclude entry of a dispositional order authorizing placement in foster care when the court finds that such placement is needed for protection of the juvenile. When efforts to prevent the need for the juvenile's placement are precluded by an immediate threat of harm to the juvenile, the court may find that placement of the juvenile in the absence of such efforts is reasonable.

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

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

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



(a) In any case where custody is removed from a parent or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, the court shall conduct a review within six months of the date the order was entered, shall conduct a second review within six months after the first review, and shall conduct subsequent reviews at least every year thereafter. The Director of Social Services shall make timely requests to the clerk to calendar the case at a session of court scheduled for the hearing of juvenile matters within six months of the date the order was entered. The director shall make timely requests for calendaring subsequent reviews. The clerk shall give 15 days' notice of the review to the parent or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, the juvenile, if 12 years of age or more, the guardian, foster parent, custodian, or agency with custody, the guardian ad litem, and any other person the court may specify, indicating the court's impending review.

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

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

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

(c) At every review hearing, the court shall consider information from the department of social services, the juvenile, the parent or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, the custodian, the foster parent, the guardian ad litem, and any public or private agency which will aid it in its review.

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

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

- (2) Where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care.
- (3) Goals of the foster care placement and the appropriateness of the foster care plan.
- (4) A new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile.
- (5) Reports on the placements the juvenile has had and any services offered to the juvenile and the parent.
- (6) When and if termination of parental rights should be considered.
- (7) Any other criteria the court deems necessary.

(d) The court, after making findings of fact, may appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by G.S. 7B-903, including the authority to place the juvenile in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile. If the juvenile is placed in or remains in the custody of the department of social services, the court may authorize the department to arrange and supervise a visitation plan. Except for such visitation, the juvenile shall not be returned to the parent or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court without a hearing at which the court finds sufficient facts to show that the juvenile will receive proper care and supervision. The court may enter an order continuing the placement under review or providing for a different placement as is deemed to be in the best interests of the juvenile. If at any time custody is restored to a parent, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

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

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

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

(a) The purpose of each placement review is to ensure that every reasonable effort is being made to provide for a permanent placement plan for the juvenile who has been placed in the custody of a county director or licensed child-placing agency, which is consistent with the juvenile's best interests. At each review hearing the court may consider information from the department of social services, the licensed child-placing

agency, the guardian ad litem, the juvenile, the foster parent, and any other person or agency the court determines is likely to aid in the review.

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

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

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

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

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

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

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

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

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

(f) The process of selection of specific adoptive parents shall be the responsibility of and within the discretion of the county department of social services or licensed child-placing agency. The guardian ad litem may request information from and consult with the county department or child-placing agency concerning the selection

process. If the guardian ad litem requests information about the selection process, the county shall provide the information within five days. Any issue of abuse of discretion by the county department or child-placing agency in the selection process must be raised by the guardian ad litem within 10 days following the date the agency notifies the court and the guardian ad litem in writing of the filing of the adoption petition.

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

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

- (1) One parent has surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six months of the surrender by the other parent, or
- (2) Both parents have surrendered a juvenile for adoption under the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes and that juvenile has not been placed for adoption within six months from the date of the more recent parental surrender.

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

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

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

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

- (1) The voluntariness of the placement;
- (2) The appropriateness of the placement;
- (3) Whether the placement is in the best interests of the juvenile; and
- (4) The services that have been or should be provided to the parents, guardian, foster parents, and juvenile, as the case may be, either (i) to improve the placement or (ii) to eliminate the need for the placement.

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

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

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

#### "ARTICLE 10.

##### "Modification and Enforcement of Dispositional Orders; Appeals.

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

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

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

##### "§ 7B-1001. Right to appeal.

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

- (1) Any order finding absence of jurisdiction;
- (2) Any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is abused, neglected, or dependent; or
- (4) Any order modifying custodial rights.

##### "§ 7B-1002. Proper parties for appeal.

An appeal may be taken by the guardian ad litem or juvenile, the juvenile's parent, guardian, or custodian, the State or county agency.

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

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

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

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

**"ARTICLE 11.**

**"Termination of Parental Rights.**

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

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

- (1) The general purpose of this Article is to provide judicial procedures for terminating the legal relationship between a juvenile and the juvenile's biological or legal parents when the parents have demonstrated that they will not provide the degree of care which promotes the healthy and orderly physical and emotional well-being of the juvenile.
- (2) It is the further purpose of this Article to recognize the necessity for any juvenile to have a permanent plan of care at the earliest possible age, while at the same time recognizing the need to protect all juveniles from the unnecessary severance of a relationship with biological or legal parents.
- (3) Action which is in the best interests of the juvenile should be taken in all cases where the interests of the juvenile and those of the juvenile's parents or other persons are in conflict.
- (4) This Article shall not be used to circumvent the provisions of Chapter 50A of the General Statutes, the Uniform Child Custody Jurisdiction Act.

**"§ 7B-1101. Jurisdiction.**

The court shall have exclusive original jurisdiction to hear and determine any petition relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district at the time of filing of the petition. The

court shall have jurisdiction to terminate the parental rights of any parent irrespective of the age of the parent. The parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right. The fees of appointed counsel shall be borne by the Administrative Office of the Courts. In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

- (1) Where it is alleged that a parent's rights should be terminated pursuant to G.S. 7B-1110(6); or
- (2) Where the parent is under the age of 18 years.

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

**"§ 7B-1102. Who may petition.**

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

- (1) Either parent seeking termination of the right of the other parent; or
- (2) Any person who has been judicially appointed as the guardian of the person of the juvenile; or
- (3) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to whom custody of the juvenile has been given by a court of competent jurisdiction; or
- (4) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to which the juvenile has been surrendered for adoption by one of the parents or by the guardian of the person of the juvenile, pursuant to G.S. 48-3-701; or
- (5) Any person with whom the juvenile has resided for a continuous period of two years or more next preceding the filing of the petition; or
- (6) Any guardian ad litem appointed to represent the minor juvenile pursuant to G.S. 7B-601 who has not been relieved of this responsibility and who has served in this capacity for at least one continuous year; or
- (7) Any person who has filed a petition for adoption pursuant to Chapter 48 of the General Statutes.

**"§ 7B-1103. Petition.**

The petition shall be verified by the petitioner and shall be entitled 'In Re (last name of juvenile)', a minor juvenile; and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner shall so state:

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

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

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

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

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

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

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



- (2) Be directed to 'the father (mother) (father and mother) of a male (female) juvenile born on or about .....in (date) .....County, ..... (city) ....., respondent'; (State)
- (3) Designate the docket number and title of the case (the court may direct the actual name of the title be eliminated and the words 'In Re Doe' substituted therefor);
- (4) State that a petition seeking to terminate the parental rights of the respondent has been filed;
- (5) Direct the respondent to answer the petition within 30 days after a date stated in the notice, exclusive of such date, which date so stated shall be the date of first publication of notice and be substantially in the form as set forth in G.S. 1A-1, Rule 4(j1); and
- (6) State that the respondent's parental rights to the juvenile will be terminated upon failure to answer the petition within the time prescribed.

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

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

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

**"§ 7B-1105. Issuance of summons.**

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

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

Provided, no summons need be directed to or served upon any parent who has previously surrendered the juvenile to a county department of social services or licensed child-placing agency nor to any parent who has consented to the adoption of the

juvenile by the petitioner. The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition. Service of the summons shall be completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the parent of the juvenile shall not be deemed to be under disability even though the parent is a minor.

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

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

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

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

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

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

(b) If an answer denies any material allegation of the petition, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition was filed by the guardian ad litem pursuant to G.S. 7B-1102. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in G.S. 7B-601 and G.S. 7B-603. The court shall conduct a special hearing after notice of not less than 10 days nor more than 30 days to the petitioner, the answering respondent, and the guardian ad litem for the juvenile to determine the issues raised by the petition and answer. Notice of the hearing shall be deemed to have been given upon the depositing thereof in the United States

mail, first-class postage prepaid, and addressed to the petitioner, respondent, and guardian ad litem or their counsel of record, at the addresses appearing in the petition and responsive pleading.

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

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

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

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

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

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

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

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

(f) The burden in such proceedings shall be upon the petitioner and all findings of fact shall be based on clear, cogent, and convincing evidence. No husband-wife or physician-patient privilege shall be grounds for excluding any evidence regarding the existence or nonexistence of any circumstance authorizing the termination of parental rights.

**"§ 7B-1109. Disposition.**

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

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

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

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

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

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

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

- (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.
- (2) The parent has willfully left the juvenile in foster care for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made within 12 months in correcting those conditions which led to the removal of the juvenile. Provided, however, that no parental rights shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.
- (3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the petition, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
- (4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent

whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.

- (5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition to terminate parental rights:
- a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or
  - b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or
  - c. Legitimated the juvenile by marriage to the mother of the juvenile; or
  - d. Provided substantial financial support or consistent care with respect to the juvenile and mother.
- (6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition.
- (7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition. For the purpose of this subdivision, a juvenile may be willfully abandoned by the juvenile's natural father if the mother of the juvenile had been willfully abandoned by and was living separate and apart from the father at the time of the juvenile's birth, although the father may not have known of such birth; but in any event the juvenile must be over the age of three months at the time of the filing of the petition.

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

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

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

- (1) If the juvenile had been placed in the custody of or released for adoption by one parent to a county department of social services or

licensed child-placing agency and is in the custody of the agency at the time of the filing of the petition, including a petition filed pursuant to G.S. 7B-1102(6), that agency shall, upon entry of the order terminating parental rights, acquire all of the rights for placement of the juvenile as the agency would have acquired had the parent whose rights are terminated released the juvenile to that agency pursuant to the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes, including the right to consent to the adoption of the juvenile.

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

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

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

"ARTICLE 12.

"Guardian ad Litem Program.

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

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

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

(a) Local Programs. – The Administrative Office of the Courts shall, in cooperation with each chief district court judge and other personnel in the district,

implement and administer the program mandated by this Article. Where a local program has not yet been established in accordance with this Article, the district court district shall operate a guardian ad litem program approved by the Administrative Office of the Courts.

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

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

If a conflict of interest prohibits a local program from providing representation to an abused, neglected, or dependent juvenile, the court may appoint any member of the district bar to represent the juvenile. If the Administrative Office of the Courts determines that within a particular district court district the implementation of a local program is impractical, or that an alternative plan meets the conditions of G.S. 7B-1203, the Administrative Office of the Courts shall waive the establishment of the program within the district.

**"§ 7B-1203. Alternative plans.**

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

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

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

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

Any volunteer participating in a judicial proceeding pursuant to the program authorized by this Article shall not be civilly liable for acts or omissions committed in

connection with the proceeding if the volunteer acted in good faith and was not guilty of gross negligence.

"ARTICLE 13.

"Prevention of Abuse and Neglect.

**"§ 7B-1300. Purpose.**

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

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

(a) The State Board of Education, through the Department of Public Instruction, shall implement the Program on Prevention of Abuse and Neglect. The Department of Public Instruction, subject to the approval of the State Board of Education, shall provide the staff and support services for implementing this program.

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

- (1) The Department of Public Instruction shall review applications and make recommendations to the State Board of Education concerning the awarding of contracts under this Article.
- (2) The State Board of Education shall contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to operate community-based educational and service programs designed to prevent the occurrence of abuse and neglect. Every contract entered into by the State Board of Education shall contain provisions that at least twenty-five percent (25%) of the total funding required for a program be provided by the administering organization in the form of in-kind or other services and that a mechanism for evaluation of services provided under the contract be included in the services to be performed. In addition, every proposal to the Department of Public Instruction for funding under this Article shall include assurances that the proposal has been forwarded to the local department of social services for comment so that the Department of Public Instruction may consider coordination and duplication of effort on the local level as criteria in making recommendations to the State Board of Education.
- (3) The State Board of Education, with the assistance of the Department of Public Instruction, shall develop appropriate guidelines and criteria for awarding contracts under this Article. These criteria shall include, but are not limited to: documentation of need within the proposed geographical impact area; diversity of geographical areas of programs funded under this Article; demonstrated effectiveness of the proposed strategy or program for preventing abuse and neglect; reasonableness of implementation plan for achieving stated objectives; utilization of community resources including volunteers; provision for an evaluation component that will provide outcome data; plan for dissemination of



the program for implementation in other communities; and potential for future funding from private sources.

(4) The State Board of Education, with the assistance of the Department of Public Instruction, shall develop guidelines for regular monitoring of contracts awarded under this Article in order to maximize the investments in prevention programs by the Children's Trust Fund and to establish appropriate accountability measures for administration of contracts.

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

(c) To assist in implementing this Article, the State Board of Education may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All monies received by the State Board of Education from contributions, grants, or gifts and not through appropriation by the General Assembly shall be deposited in the Children's Trust Fund. Disbursements of the funds shall be on the authorization of the State Board of Education or that Board's duly authorized representative. In order to maintain an effective expenditure and revenue control, the funds are subject in all respects to State law and regulations, but no appropriation is required to permit expenditure of the funds.

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

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

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

**"§ 7B-1302. Children's Trust Fund.**

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

"ARTICLE 14.

"North Carolina Child Fatality Prevention System.

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

The General Assembly finds that it is the public policy of this State to prevent the abuse, neglect, and death of juveniles. The General Assembly further finds that the

prevention of the abuse, neglect, and death of juveniles is a community responsibility; that professionals from disparate disciplines have responsibilities for children or juveniles and have expertise that can promote their safety and well-being; and that multidisciplinary reviews of the abuse, neglect, and death of juveniles can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a statewide multidisciplinary, multiagency child fatality prevention system consisting of the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-1406. The purpose of the system is to assess the records of selected cases in which children are being served by child protective services and the records of all deaths of children in North Carolina from birth to age 18 in order to (i) develop a communitywide approach to the problem of child abuse and neglect, (ii) understand the causes of childhood deaths, (iii) identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to prevent future child abuse, neglect, or death, and (iv) make and implement recommendations for changes to laws, rules, and policies that will support the safe and healthy development of our children and prevent future child abuse, neglect, and death.

**"§ 7B-1401. Definitions.**

The following definitions apply in this Article:

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

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

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

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

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;

- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Health and Human Services;
- (11) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
- (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
- (19) Two public members, appointed by the Speaker of the House of Representatives;
- (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
- (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
- (23) Two public members, appointed by the President Pro Tempore of the Senate; and

(24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term.

**"§ 7B-1403. Task Force – duties.**

The Task Force shall:

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

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

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

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

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of Health and Human Services;
- (4) The Director of the State Bureau of Investigation;

- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services;
- (8) The Director of the Administrative Office of the Courts;
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task Force;
- (10) A public member, appointed by the Governor; and
- (11) The Team Coordinator.

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

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

**"§ 7B-1405. State Team – duties.**

The State Team shall:

- (1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile pursuant to G.S. 7B-301 at any time before death;
- (2) Report to the Task Force during the existence of the Task Force, in the format and at the time required by the Task Force, on the State Team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children;
- (3) Upon request of a Local Team, provide technical assistance to the Team;
- (4) Periodically assess the operations of the multidisciplinary child fatality prevention system and make recommendations for changes as needed;
- (5) Work with the Team Coordinator to develop guidelines for selecting child deaths to receive detailed, multidisciplinary death reviews by Local Teams that review cases of additional child fatalities; and
- (6) Receive reports of findings and recommendations from Local Teams that review cases of additional child fatalities and work with the Team Coordinator to implement recommendations.

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

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

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

- a. Selected active cases in which children are being served by child protective services; and
  - b. Cases in which a child died as a result of suspected abuse or neglect, and
    - 1. A report of abuse or neglect has been made about the child or the child's family to the county department of social services within the previous 12 months, or
    - 2. The child or the child's family was a recipient of child protective services within the previous 12 months.
- (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

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

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

- (1) Review the records of all cases of additional child fatalities.
  - (2) Submit annually to the board of county commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.
  - (3) Report findings in connection with these reviews to the Team Coordinator.
- (c) All reports to the Team Coordinator under this section shall include:
- (1) A listing of the system problems identified through the review process and recommendations for preventive actions;
  - (2) Any changes that resulted from the recommendations made by the Local Team;
  - (3) Information about each death reviewed; and
  - (4) Any additional information requested by the Team Coordinator.

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

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

- (b) Each Local Team shall consist of the following persons:
- (1) The director of the county department of social services and a member of the director's staff;
  - (2) A local law enforcement officer, appointed by the board of county commissioners;

- (3) An attorney from the district attorney's office, appointed by the district attorney;
- (4) The executive director of the local community action agency, as defined by the Department of Health and Human Services, or the executive director's designee;
- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and
- (10) A local health care provider, appointed by the local board of health.

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

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

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

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

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

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

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

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

- (1) Develop a plan to establish Local Teams that review the records of additional child fatalities in each county.
- (2) Develop model operating procedures for these Local Teams that address when public meetings should be held, what items should be addressed in public meetings, what information may be released in written reports, and any other information the Team Coordinator considers necessary.
- (3) Provide structured training for these Local Teams at the time of their establishment, and continuing technical assistance thereafter.
- (4) Provide statistical information on all child deaths occurring in each county to the appropriate Local Team, and assure that all child deaths in a county are assessed through the multidisciplinary system.
- (5) Monitor the work of these Local Teams.
- (6) Receive reports of findings, and other reports that the Team Coordinator may require, from these Local Teams.
- (7) Report the aggregated findings of these Local Teams to each Local Team that reviews the records of additional child fatalities and to the State Team.
- (8) Evaluate the impact of local efforts to identify problems and make changes.

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

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

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



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

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

- (1) Distribute copies of the written procedures developed by the Team Coordinator under G.S. 7B-1408 to the administrators of all agencies represented on the Local Team and to all members of the Local Team;
- (2) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Local Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law;
- (3) Provide staff support for these reviews; and
- (4) Report quarterly to the local board of health, or as required by the board, on the activities of the Local Team.

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

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

**"§ 7B-1412. Task Force – reports.**

The Task Force shall report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the General Assembly. The report shall contain at least a summary of the conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, or policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State.

**"§ 7B-1413. Access to records.**

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

(b) Meetings of the State Team and the Local Teams are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local

Teams may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session shall be sealed from public inspection.

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

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

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

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

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

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

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

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

"SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.

"ARTICLE 15.

"Purposes; Definitions.

**"§ 7B-1500. Purpose.**

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

- (1) To protect the public from acts of delinquency.
- (2) To deter delinquency and crime, including patterns of repeat offending:
  - a. By providing swift, effective dispositions that emphasize the juvenile offender's accountability for the juvenile's actions; and
  - b. By providing appropriate rehabilitative services to juveniles and their families.
- (3) To provide an effective system of intake services for the screening and evaluation of complaints and, in appropriate cases, where court intervention is not necessary to ensure public safety, to refer juveniles to community-based resources.
- (4) To provide uniform procedures that assure fairness and equity; that protect the constitutional rights of juveniles, parents, and victims; and that encourage the court and others involved with juvenile offenders to proceed with all possible speed in making and implementing determinations required by this Subchapter.

**"§ 7B-1501. Definitions.**

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Office of Juvenile Justice.
- (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (3) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (4) Court. – The district court division of the General Court of Justice.
- (5) Court counselor. – A person responsible for probation and post-release supervision to juveniles under the supervision of the chief court counselor.
- (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under

- State law or under an ordinance of local government, including violation of the motor vehicle laws.
- (8) Detention. – The secure confinement of a juvenile pursuant to a court order.
  - (9) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.
  - (10) District. – Any district court district as established by G.S. 7A-133.
  - (11) Holdover facility. – A place in a jail which has been approved by the Department of Health and Human Services as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.
  - (12) House arrest. – A requirement that the juvenile remain at the juvenile's residence unless the court or the juvenile court counselor authorizes the juvenile to leave for specific purposes.
  - (13) Intake counselor. – A person who screens and evaluates a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
  - (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee, or runaway, to the juvenile's home state, and codified in Article 28 of this Chapter.
  - (15) Judge. – Any district court judge.
  - (16) Judicial district. – Any district court district as established by G.S. 7A-133.
  - (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term 'juvenile' is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
  - (18) Juvenile court. – Any district court exercising jurisdiction pursuant to this Chapter.
  - (19) Office. – The Office of Juvenile Justice.
  - (20) Petitioner. – The individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.
  - (21) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Office for placement in a training school.
  - (22) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a court counselor, and may be returned to the court for violation of those conditions during the period of probation.

- (23) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (24) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a court counselor.
- (25) Teen court program. – A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile's peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures.
- (26) Training school. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Office of Juvenile Justice.
- (27) Undisciplined juvenile. –
  - a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or
  - b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.
- (28) Wilderness program. – A rehabilitative residential treatment program in a rural or outdoor setting.

The singular includes the plural, unless otherwise specified.

"ARTICLE 16.

"Jurisdiction.

**"§ 7B-1600. Jurisdiction over undisciplined juveniles.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be undisciplined. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile under this section, jurisdiction shall continue until terminated by order of the court, the juvenile reaches the age of 18 years, or the juvenile is emancipated.

(c) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section, if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805.

**"§ 7B-1601. Jurisdiction over delinquent juveniles.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs.

(b) When the court obtains jurisdiction over a juvenile alleged to be delinquent, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 18 years, except as provided otherwise in this Article.

(c) When delinquency proceedings cannot be concluded before the juvenile reaches the age of 18 years, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(d) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 22 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition.

(e) The court has jurisdiction over delinquent juveniles in the custody of the Office and over proceedings to determine whether a juvenile who is under the post-release supervision of the court counselor has violated the terms of the juvenile's post-release supervision.

(f) The court has jurisdiction over persons 18 years of age or older who are under the extended jurisdiction of the juvenile court.

(g) The court has jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court pursuant to this section if the parent, guardian, or custodian has been served with a summons pursuant to G.S. 7B-1805.

**"§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain circumstances.**

(a) When a juvenile is committed to the Office for placement in a training school for an offense that would be first degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 21 years, whichever occurs first.

(b) When a juvenile is committed to the Office for placement in a training school for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subsection (a) of this section, jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 19 years, whichever occurs first.

**"§ 7B-1603. Jurisdiction in certain circumstances.**

The court has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter;
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or person who has assumed the status and obligation of a

parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered; and

(3) Proceedings to determine whether a juvenile should be emancipated.

**"§ 7B-1604. Limitations on juvenile court jurisdiction.**

(a) Any juvenile, including a juvenile who is under the jurisdiction of the court, who commits a criminal offense on or after the juvenile's sixteenth birthday is subject to prosecution as an adult. A juvenile who is emancipated shall be prosecuted as an adult for the commission of a criminal offense.

(b) A juvenile who is transferred to and convicted in superior court shall be prosecuted as an adult for any criminal offense the juvenile commits after the superior court conviction.

**"ARTICLE 17.**

**"Screening of Delinquency and Undisciplined Complaints.**

**"§ 7B-1700. Intake services.**

The chief court counselor, under the direction of the Office, shall establish intake services in each judicial district of the State for all delinquency and undisciplined cases.

The purpose of intake services shall be to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, to determine whether the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of the court, to determine whether the facts alleged are sufficiently serious to warrant court action, and to obtain assistance from community resources when court referral is not necessary. The intake counselor shall not engage in field investigations to substantiate complaints or to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes.

**"§ 7B-1701. Preliminary inquiry.**

When a complaint is received, the intake counselor shall make a preliminary determination as to whether the juvenile is within the jurisdiction of the court as a delinquent or undisciplined juvenile. If the intake counselor finds that the facts contained in the complaint do not state a case within the jurisdiction of the court, that legal sufficiency has not been established, or that the matters alleged are frivolous, the intake counselor, without further inquiry, shall refuse authorization to file the complaint as a petition.

When requested by the intake counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

The intake counselor, without further inquiry, shall authorize the complaint to be filed as a petition if the intake counselor finds reasonable grounds to believe that the juvenile has committed one of the following nondivertible offenses:

- (1) Murder;
- (2) First-degree rape or second degree rape;
- (3) First-degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult;

- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.

**"§ 7B-1702. Evaluation.**

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in G.S. 7B-1701, the intake counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the Office. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;
- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone.

**"§ 7B-1703. Evaluation decision.**

(a) The intake counselor shall complete evaluation of a complaint within 15 days of receipt of the complaint, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The intake counselor shall decide within this time period whether a complaint shall be filed as a juvenile petition.

(b) Except as provided in G.S. 7B-1706, if the intake counselor determines that a complaint should be filed as a petition, the counselor shall file the petition as soon as practicable, but in any event within 15 days after the complaint is received, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The intake counselor shall assist the complainant when necessary with the preparation and filing of the petition, shall include on it the date and the words 'Approved for Filing', shall sign it, and shall transmit it to the clerk of superior court.

(c) If the intake counselor determines that a petition should not be filed, the intake counselor shall notify the complainant immediately in writing with reasons for the decision and shall include notice of the complainant's right to have the decision reviewed by the prosecutor. The intake counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words 'Not Approved for Filing'; and
- (3) Whether the matter is 'Closed' or 'Diverted and Retained'.

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition shall be destroyed by the intake counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705.

**"§ 7B-1704. Request for review by prosecutor.**



The complainant has five calendar days, from receipt of the intake counselor's decision not to approve the filing of a petition, to request review by the prosecutor. The intake counselor shall notify the prosecutor immediately of such request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the complainant and the intake counselor of the time and place for the review.

**"§ 7B-1705. Review of determination that petition should not be filed.**

No later than 20 days after the complainant is notified, the prosecutor shall review the intake counselor's determination that a juvenile petition should not be filed. Review shall include conferences with the complainant and the intake counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the decision of the intake counselor or direct the filing of a petition and (ii) notify the complainant of the prosecutor's action.

**"§ 7B-1706. Diversion plans and referral.**

(a) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the intake counselor may divert the juvenile pursuant to a diversion plan, which may include referring the juvenile to any of the following resources:

- (1) An appropriate public or private resource;
- (2) Restitution;
- (3) Community service;
- (4) Victim-offender mediation;
- (5) Regimented physical training;
- (6) Counseling;
- (7) A teen court program, as set forth in subsection (c) of this section.

As part of a diversion plan, the intake counselor may enter into a diversion contract with the juvenile and the juvenile's parent, guardian, or custodian.

(b) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the intake counselor may enter into a diversion contract with the juvenile and the parent, guardian, or custodian; provided, a diversion contract requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A diversion contract shall:

- (1) State conditions by which the juvenile agrees to abide and any actions the juvenile agrees to take;
- (2) State conditions by which the parent, guardian, or custodian agrees to abide and any actions the parent, guardian, or custodian agrees to take;
- (3) Describe the role of the court counselor in relation to the juvenile and the parent, guardian, or custodian;
- (4) Specify the length of the contract, which shall not exceed six months;
- (5) Indicate that all parties understand and agree that:
  - a. The juvenile's violation of the contract may result in the filing of the complaint as a petition; and
  - b. The juvenile's successful completion of the contract shall preclude the filing of a petition.

After a diversion contract is signed by the parties, the intake counselor shall provide copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian. The intake counselor shall notify any agency or other resource from which the juvenile or the juvenile's parent, guardian, or custodian will be seeking services or treatment pursuant to the terms of the contract. At any time during the term of the contract if the court counselor determines that the juvenile has failed to comply substantially with the terms of the contract, the court counselor may file the complaint as a petition. Unless the court counselor has filed the complaint as a petition, the intake counselor shall close the juvenile's file in regard to the diverted matter within six months after the date of the contract.

(c) If a teen court program has been established in the district, the intake counselor, upon a finding of legal sufficiency, may refer to a teen court program, any case in which a juvenile has allegedly committed an offense that would be an infraction or misdemeanor if committed by an adult. However, the intake counselor shall not refer a case to a teen court program (i) if the juvenile has been referred to a teen court program previously, or (ii) if the juvenile is alleged to have committed any of the following offenses:

- (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-138.5, or 20-138.7, or any other motor vehicle violation;
- (2) A Class A1 misdemeanor;
- (3) An assault in which a weapon is used; or
- (4) A controlled substance offense under Article 5 of Chapter 90 of the General Statutes, other than simple possession of a Schedule VI drug or alcohol.

(d) The intake counselor shall maintain diversion plans and contracts entered into pursuant to this section to allow intake counselors to determine when a juvenile has had a complaint diverted previously. Diversion plans and contracts are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, and shall be withheld from public inspection or examination. Diversion plans and contracts shall be destroyed when the juvenile reaches the age of 18 years or when the juvenile is no longer under the jurisdiction of the court, whichever is longer.

(e) No later than 60 days after the intake counselor diverts a juvenile, the intake counselor shall determine whether the juvenile and the juvenile's parent, guardian, or custodian have complied with the terms of the diversion plan or contract. In making this determination, the intake counselor shall contact any referral resources to determine whether the juvenile and the juvenile's parent, guardian, or custodian complied with any recommendations for treatment or services made by the resource. If the juvenile and the juvenile's parent, guardian, or custodian have not complied, the intake counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition within 10 days after making the determination. If the intake counselor does not file a petition, the intake counselor may continue to monitor the case for up to six months from the date of the diversion plan or contract. At any point during that time period if the juvenile and the juvenile's parent, guardian, or custodian fail to comply, the

intake counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition. After six months, the intake counselor shall close the diversion plan or contract file.

"ARTICLE 18.

"Venue; Petition; Summons.

**"§ 7B-1800. Venue.**

A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be commenced and adjudicated in the district in which the offense is alleged to have occurred. When a proceeding is commenced in a district other than that of the juvenile's residence, the court shall proceed to adjudication in that district. After adjudication, the following procedures shall be available to the court:

- (1) The court may transfer the proceeding to the court in the district where the juvenile resides for disposition.
- (2) Where the proceeding is not transferred under subdivision (1) of this section, the court shall immediately notify the chief district court judge in the district in which the juvenile resides. If the chief district court judge requests a transfer within five days after receipt of notification, the court shall transfer the proceeding.
- (3) Where the proceeding is not transferred under subdivision (1) or (2) of this section, the court, upon motion of the juvenile, shall transfer the proceeding to the court in the district where the juvenile resides for disposition. The court shall advise the juvenile of the juvenile's right to transfer under this section.

**"§ 7B-1801. Pleading and process.**

The pleading in a juvenile action is the petition. The process in a juvenile action is the summons.

**"§ 7B-1802. Petition.**

The petition shall contain the name, date of birth, and address of the juvenile and the name and last known address of the juvenile's parent, guardian, or custodian. The petition shall allege the facts that invoke jurisdiction over the juvenile. The petition shall not contain information on more than one juvenile.

A petition in which delinquency is alleged shall contain a plain and concise statement, without allegations of an evidentiary nature, asserting facts supporting every element of a criminal offense and the juvenile's commission thereof with sufficient precision clearly to apprise the juvenile of the conduct which is the subject of the allegation.

Sufficient copies of the petition shall be prepared so that copies will be available for the juvenile, for each parent if living separate and apart, for the guardian or custodian if any, for the court counselor, for the prosecutor, and for any person determined by the court to be a necessary party.

**"§ 7B-1803. Receipt of complaints; filing of petition.**

(a) All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the intake counselor for screening and evaluation. Thereafter, if the intake counselor determines that a petition should be filed, the petition

shall be drawn by the intake counselor or the clerk, signed by the complainant, and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the intake counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating the complaint to the intake counselor by telephone and, with the approval of the intake counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the intake counselor. Procedures for receiving delinquency and undisciplined complaints and drawing petitions thereon, consistent with this Article and Article 17 of this Chapter, shall be established by administrative order of the chief judge in each judicial district.

(b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a complaint and any decision of the intake counselor not to authorize that the complaint be filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition, recording the day of filing.

**"§ 7B-1804. Commencement of action.**

(a) An action is commenced by the filing of a petition in the clerk's office when that office is open, or by a magistrate's acceptance of a petition for filing pursuant to subsection (b) of this section when the clerk's office is closed.

(b) When the office of the clerk is closed and an intake counselor requests a petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and verify the petition and accept it for filing, which acceptance shall constitute filing. The magistrate's authority under this subsection is limited to emergency situations when a petition is required in order to obtain a secure or nonsecure custody order. Any petition accepted for filing under this subsection shall be delivered to the clerk's office for processing as soon as that office is open for business.

**"§ 7B-1805. Issuance of summons.**

(a) Immediately after a petition has been filed alleging that a juvenile is undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the parent, guardian, or custodian requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons.

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

- (1) Notice of the nature of the proceeding and the purpose of the hearing scheduled on the summons.
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing.
- (3) Notice that, if the court determines at the adjudicatory hearing that the allegations of the petition are true, the court will conduct a dispositional hearing and will have jurisdiction to enter orders affecting substantial rights of the juvenile and of the parent, guardian, or custodian, including orders that:
  - a. Affect the juvenile's custody;

- b. Impose conditions on the juvenile;
  - c. Require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment;
  - d. Require the parent to undergo psychiatric, psychological, or other treatment or counseling;
  - e. Order the parent to pay for treatment that is ordered for the juvenile or the parent; and
  - f. Order the parent to pay support for the juvenile for any period the juvenile does not reside with the parent or to pay attorneys' fees or other fees or expenses as ordered by the court.
- (4) Notice that the parent, guardian, or custodian shall be required to attend scheduled hearings and that failure without reasonable cause to attend may result in proceedings for contempt of court.
- (5) Notice that the parent, guardian, or custodian shall be responsible for bringing the juvenile before the court at any hearing the juvenile is required to attend and that failure without reasonable cause to bring the juvenile before the court may result in proceedings for contempt of court.

(c) The summons shall advise the parent, guardian, or custodian that upon service, jurisdiction over the parent, guardian, or custodian is obtained and that failure of the parent, guardian, or custodian to appear or bring the juvenile before the court without reasonable cause or to comply with any order of the court pursuant to Article 27 of this Chapter may cause the court to issue a show cause order for contempt. The summons shall contain the following language in bold type:

**'TO THE PARENT(S), GUARDIAN(S), OR CUSTODIAN(S): YOUR FAILURE TO APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CRIMINAL CONTEMPT. A PERSON HELD IN CRIMINAL CONTEMPT MAY BE SUBJECT TO IMPRISONMENT OF UP TO 30 DAYS, A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) OR BOTH.'**

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

**"§ 7B-1806. Service of summons.**

The summons and petition shall be personally served upon the parent, the guardian, or custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

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

The court may issue a show cause order for contempt against a parent, guardian, or custodian who is personally served and fails without reasonable cause to appear and to bring the juvenile before the court.

The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to juvenile process; provided the period of time for return of an unserved summons is 30 days.

**"§ 7B-1807. Notice to parent and juvenile of scheduled hearings.**

The clerk shall give to all parties, including both parents of the juvenile, the juvenile's guardian or custodian, and any other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, five days' written notice of the date and time of all scheduled hearings unless the party is notified in open court or the court orders otherwise.

**"§ 7B-1808. First appearance for felony cases.**

(a) A juvenile who is alleged in the petition to have committed an offense that would be a felony if committed by an adult shall be summoned to appear before the court for a first appearance within 10 days of the filing of the petition. If the juvenile is in secure or nonsecure custody, the first appearance shall take place at the initial hearing required by G.S. 7B-1906. Unless the juvenile is in secure or nonsecure custody, the court may continue the first appearance to a time certain for good cause.

(b) At the first appearance, the court shall:

- (1) Inform the juvenile of the allegations set forth in the petition;
- (2) Determine whether the juvenile has retained counsel or has been assigned counsel and, if the juvenile is not represented by counsel, appoint counsel for the juvenile;
- (3) If applicable, inform the juvenile of the date of the probable cause hearing, which shall be within 15 days of the first appearance; and
- (4) Inform the parent, guardian, or custodian that the parent, guardian, or custodian is required to attend all hearings scheduled in the matter and may be held in contempt of court for failure to attend any scheduled hearing.

**"ARTICLE 19.**

**"Temporary Custody; Secure and Nonsecure Custody;  
Custody Hearings.**

**"§ 7B-1900. Taking a juvenile into temporary custody.**

Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order under the following circumstances:

- (1) By a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401(b).
- (2) By a law enforcement officer or a court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.
- (3) By a law enforcement officer, by a court counselor, by a member of the Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Office if there are reasonable

grounds to believe the juvenile is an absconder from any residential facility operated by the Office or from an approved detention facility.

**"§ 7B-1901. Duties of person taking juvenile into temporary custody.**

(a) A person who takes a juvenile into custody without a court order under G.S. 7B-1900(1) or (2) shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent, guardian, or custodian that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In the case of a juvenile unlawfully absent from school, if continued custody is unnecessary, the person having temporary custody may deliver the juvenile to the juvenile's school or, if the local city or county government and the local school board adopt a policy, to a place in the local school administrative unit.
- (3) If the juvenile is not released, request that a petition be drawn pursuant to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn and verified, the person shall communicate with the intake counselor. If the intake counselor approves the filing of the petition, the intake counselor shall contact the judge or the person delegated authority pursuant to G.S. 7B-1902 if other than the intake counselor, for a determination of the need for continued custody.

(b) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours, or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday, or legal holiday, unless a petition or motion for review has been filed and an order for secure or nonsecure custody has been entered.

(c) A person who takes a juvenile into custody under G.S. 7B-1900(3), after receiving an order for secure custody, shall transport the juvenile to the nearest approved facility providing secure custody. The person then shall contact the administrator of the facility from which the juvenile absconded, who shall be responsible for returning the juvenile to that facility.

**"§ 7B-1902. Authority to issue custody orders; delegation.**

In the case of any juvenile alleged to be within the jurisdiction of the court, when the court finds it necessary to place the juvenile in custody, the court may order that the juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-1903.

Any district court judge may issue secure and nonsecure custody orders pursuant to G.S. 7B-1903. The chief district court judge may delegate the court's authority to the chief court counselor or the chief court counselor's counseling staff by administrative order filed in the office of the clerk of superior court. The administrative order shall specify which persons may be contacted for approval of a secure or nonsecure custody

order. The chief district court judge shall not delegate the court's authority to detain or house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2512.

**"§ 7B-1903. Criteria for secure or nonsecure custody.**

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

- (1) The juvenile is a runaway and consents to nonsecure custody; or
- (2) The juvenile meets one or more of the criteria for secure custody, but the court finds it in the best interests of the juvenile that the juvenile be placed in a nonsecure placement.

(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the petition, and that one of the following circumstances exists:

- (1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.
- (2) The juvenile is charged with a misdemeanor at least one element of which is assault on a person and has demonstrated that the juvenile is a danger to persons.
- (3) The juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post-release supervision, providing the juvenile was properly notified.
- (4) A delinquency charge is pending against the juvenile, and there is reasonable cause to believe the juvenile will not appear in court.
- (5) The juvenile is an absconder from (i) any residential facility operated by the Office or any detention facility in this State or (ii) any comparable facility in another state.
- (6) There is reasonable cause to believe the juvenile should be detained for the juvenile's own protection because the juvenile has recently suffered or attempted self-inflicted physical injury. In such case, the juvenile must have been refused admission by one appropriate hospital, and the period of secure custody is limited to 24 hours to determine the need for inpatient hospitalization. If the juvenile is placed in secure custody, the juvenile shall receive continuous supervision and a physician shall be notified immediately.
- (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's being a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that the juvenile needs secure custody for up to 24 hours, excluding Saturdays, Sundays, and State holidays, or where circumstances require, for a period not to exceed 72 hours to evaluate the juvenile's need for medical or psychiatric treatment or to facilitate reunion with the juvenile's parents, guardian, or custodian.



(8) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays or where circumstances require for a period not to exceed 72 hours.

(c) When a juvenile has been adjudicated delinquent, the court may order secure custody pending the dispositional hearing or pending placement of the juvenile pursuant to G.S. 7B-2506.

(d) The court may order secure custody for a juvenile who is alleged to have violated the conditions of the juvenile's probation or post-release supervision, but only if the juvenile is alleged to have committed acts that damage property or injure persons.

(e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this section are met, the court may enter an order directing an officer or other authorized person to assume custody of the juvenile and to take the juvenile to the place designated in the order.

**"§ 7B-1904. Order for secure or nonsecure custody.**

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of the Division of Criminal Information, State Bureau of Investigation, stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution.

**"§ 7B-1905. Place of secure or nonsecure custody.**

(a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in nonsecure custody with a department of social services or a person designated in the order for temporary residential placement in:

- (1) A licensed foster home or a home otherwise authorized by law to provide such care;
- (2) A facility operated by a department of social services; or
- (3) Any other home or facility approved by the court and designated in the order.

In placing a juvenile in nonsecure custody, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile. If the court finds that the relative is willing and able to provide proper care and supervision, the court shall order placement of the juvenile with the relative.

Placement of a juvenile outside of this State shall be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter.

(b) Pursuant to G.S. 7B-1903(b), (c), or (d), a juvenile may be temporarily detained in an approved detention facility which shall be separate from any jail, lockup, prison, or other adult penal institution, except as provided in subsection (c) of this section. It shall be unlawful for a county or any unit of government to operate a juvenile detention facility unless the facility meets the standards and rules adopted by the Department of Health and Human Services.

(c) A juvenile who has allegedly committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in a holdover facility up to 72 hours, if the court, based on information provided by the court counselor, determines that no acceptable alternative placement is available and the protection of the public requires the juvenile be housed in a holdover facility.

**"§ 7B-1906. Secure or nonsecure custody hearings.**

(a) No juvenile shall be held under a secure custody order for more than five calendar days or under a nonsecure custody order for more than seven calendar days without a hearing on the merits or an initial hearing to determine the need for continued custody. A hearing conducted under this subsection may not be continued or waived. In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7B-1902, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if the session precedes the expiration of the applicable time period set forth in this subsection. If the session does not precede the expiration of the time period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered.

(b) As long as the juvenile remains in secure or nonsecure custody, further hearings to determine the need for continued secure custody shall be held at intervals of no more than 10 calendar days. A subsequent hearing on continued nonsecure custody shall be held within seven business days, excluding Saturdays, Sundays, and legal holidays, of the initial hearing required in subsection (a) of this section and hearings thereafter shall be held at intervals of no more than 30 calendar days. In the case of a juvenile alleged to be delinquent, further hearings may be waived only with the consent of the juvenile, through counsel for the juvenile.

(c) The court shall determine whether a juvenile who is alleged to be delinquent has retained counsel or has been assigned counsel; and, if the juvenile is not represented by counsel, appoint counsel for the juvenile.

(d) At a hearing to determine the need for continued custody, the court shall receive testimony and shall allow the juvenile and the juvenile's parent, guardian, or custodian an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice. The court shall not be bound by the usual rules of evidence at the hearings.

(e) The court shall be bound by criteria set forth in G.S. 7B-1903 in determining whether continued custody is warranted.

(f) The court may impose appropriate restrictions on the liberty of a juvenile who is released from secure custody, including:

- (1) Release on the written promise of the juvenile's parent, guardian, or custodian to produce the juvenile in court for subsequent proceedings;
- (2) Release into the care of a responsible person or organization;
- (3) Release conditioned on restrictions on activities, associations, residence, or travel if reasonably related to securing the juvenile's presence in court; or
- (4) Any other conditions reasonably related to securing the juvenile's presence in court.

(g) If the court determines that the juvenile meets the criteria in G.S. 7B-1903 and should continue in custody, the court shall issue an order to that effect. The order shall be in writing with appropriate findings of fact. The findings of fact shall include the evidence relied upon in reaching the decision and the purposes which continued custody is to achieve.

(h) The hearing to determine the need to continue custody may be conducted by audio and video transmission which allows the court and the juvenile to see and hear each other. If the juvenile has counsel, the juvenile may communicate fully and confidentially with the juvenile's attorney during the proceeding. Prior to the use of audio and video transmission, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the chief district court judge and approved by the Administrative Office of the Courts.

**"§ 7B-1907. Telephonic communication authorized.**

All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7B-1901, 7B-1903, and 7B-1904 may be made by telephone when other means of communication are impractical. All written orders pursuant to telephonic communication shall bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization.

"ARTICLE 20.

"Basic Rights.

**"§ 7B-2000. Juvenile's right to counsel; presumption of indigence.**

(a) A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel in all proceedings. The court shall appoint counsel for the juvenile, unless counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or adjudicated to be undisciplined.

(b) All juveniles shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency.

**"§ 7B-2001. Appointment of guardian.**

In any case when no parent, guardian, or custodian appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the

court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. Unless the court orders otherwise, the guardian:

- (1) Shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile.
- (2) May represent the juvenile in legal actions before any court.
- (3) May consent to certain actions on the part of the juvenile in place of the parent or custodian, including (i) marriage, (ii) enlisting in the armed forces, and (iii) enrollment in school.
- (4) May consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile.

The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

**"§ 7B-2002. Payment of court-appointed attorney.**

An attorney appointed pursuant to G.S. 7B-2000 or pursuant to any other provision of this Subchapter shall be paid a reasonable fee fixed by the court in the same manner as fees for attorneys appointed in cases of indigency through the Administrative Office of the Courts. The court may require payment of the attorneys' fees from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. A person who does not comply with the court's order of payment may be found in civil contempt as provided in G.S. 5A-21.

**"ARTICLE 21.**

**"Law Enforcement Procedures in Delinquency Proceedings.**

**"§ 7B-2100. Role of the law enforcement officer.**

A law enforcement officer who takes a juvenile into temporary custody should select the most appropriate course of action to the situation, the needs of the juvenile, and the protection of the public safety. The officer may:

- (1) Release the juvenile, with or without first counseling the juvenile;
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian;
- (3) Refer the juvenile to community resources;
- (4) Seek a petition; or
- (5) Seek a petition and request a custody order.

**"§ 7B-2101. Interrogation procedures.**

(a) Any juvenile in custody must be advised prior to questioning:

- (1) That the juvenile has a right to remain silent;
- (2) That any statement the juvenile does make can be and may be used against the juvenile;
- (3) That the juvenile has a right to have a parent, guardian, or custodian present during questioning; and
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(b) When the juvenile is less than 14 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that the juvenile does not wish to be questioned further, the officer shall cease questioning.

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

**"§ 7B-2102. Fingerprinting and photographing juveniles.**

(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Office.

(b) If a law enforcement officer or agency does not take the fingerprints or a photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or photograph have been destroyed pursuant to subsection (e) of this section, a law enforcement officer or agency shall fingerprint and photograph a juvenile who has been adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile committed an offense that would be a felony if committed by an adult.

(c) A law enforcement officer or agency who fingerprints or photographs a juvenile pursuant to this section shall do so in a proper format for transfer to the State Bureau of Investigation and the Federal Bureau of Investigation. After the juvenile, who was 10 years of age or older at the time of the offense, is adjudicated delinquent of an offense that would be a felony if committed by an adult, fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs obtained pursuant to this section shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes.

(d) Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200. Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.

(e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:

- (1) The intake counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (a) of this section;
- (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- (3) The juvenile is not adjudicated delinquent of any offense that would be a felony or a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile delinquent.

**"§ 7B-2103. Authority to issue nontestimonial identification order where juvenile alleged to be delinquent.**

Except as provided in G.S. 7B-2102, nontestimonial identification procedures shall not be conducted on any juvenile without a court order issued pursuant to this Article unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order authorized by this Article may be issued by any judge of the district court or of the superior court upon request of a prosecutor. As used in this Article, 'nontestimonial identification' means identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a juvenile.

**"§ 7B-2104. Time of application for nontestimonial identification order.**

A request for a nontestimonial identification order may be made prior to taking a juvenile into custody or after custody and prior to the adjudicatory hearing.

**"§ 7B-2105. Grounds for nontestimonial identification order.**

(a) Except as provided in subsection (b) of this section, a nontestimonial identification order may issue only on affidavit or affidavits sworn to before the court and establishing the following grounds for the order:

- (1) That there is probable cause to believe that an offense has been committed that would be a felony if committed by an adult;
- (2) That there are reasonable grounds to suspect that the juvenile named or described in the affidavit committed the offense; and
- (3) That the results of specific nontestimonial identification procedures will be of material aid in determining whether the juvenile named in the affidavit committed the offense.

(b) A nontestimonial identification order to obtain a blood specimen from a juvenile may issue only on affidavit or affidavits sworn to before the court and establishing the following grounds for the order:

- (1) That there is probable cause to believe that an offense has been committed that would be a felony if committed by an adult;
- (2) That there is probable cause to believe that the juvenile named or described in the affidavit committed the offense; and
- (3) That there is probable cause to believe that obtaining a blood specimen from the juvenile will be of material aid in determining whether the juvenile named in the affidavit committed the offense.

**"§ 7B-2106. Issuance of order.**

Upon a showing that the grounds specified in G.S. 7B-2105 exist, the judge may issue an order following the same procedure as in the case of adults under G.S. 15A-274, 15A-275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280, and 15A-282.

**"§ 7B-2107. Nontestimonial identification order at request of juvenile.**

A juvenile in custody for or charged with an offense which if committed by an adult would be a felony offense may request that nontestimonial identification procedures be conducted. If it appears that the results of specific nontestimonial identification procedures will be of material aid to the juvenile's defense, the judge to whom the request was directed must order the State to conduct the identification procedures.

**"§ 7B-2108. Destruction of records resulting from nontestimonial identification procedures.**

The results of any nontestimonial identification procedures shall be retained or disposed of as follows:

- (1) If a petition is not filed against a juvenile who has been the subject of nontestimonial identification procedures, all records of the evidence shall be destroyed.
- (2) If the juvenile is not adjudicated delinquent or convicted in superior court following transfer, all records resulting from a nontestimonial order shall be destroyed. Further, in the case of a juvenile who is under 13 years of age and who is adjudicated delinquent for an offense that would be less than a felony if committed by an adult, all records shall be destroyed.
- (3) If a juvenile 13 years of age or older is adjudicated delinquent for an offense that would be a felony if committed by an adult, all records resulting from a nontestimonial order may be retained in the court file. Special precautions shall be taken to ensure that these records will be maintained in a manner and under sufficient safeguards to limit their use to inspection by law enforcement officers for comparison purposes in the investigation of a crime.
- (4) If the juvenile is transferred to and convicted in superior court, all records resulting from nontestimonial identification procedures shall be processed as in the case of an adult.
- (5) Any evidence seized pursuant to a nontestimonial order shall be retained by law enforcement officers until further order is entered by the court.

- (6) Destruction of nontestimonial identification records pursuant to this section shall be performed by the law enforcement agency having possession of the records. Following destruction, the law enforcement agency shall make written certification to the court of the destruction.

**"§ 7B-2109. Penalty for willful violation.**

Any person who willfully violates provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by the court shall be guilty of a Class 1 misdemeanor.

**"ARTICLE 22.**

**"Probable Cause Hearing and Transfer Hearing.**

**"§ 7B-2200. Transfer of jurisdiction of juvenile to superior court.**

After notice, hearing, and a finding of probable cause the court may, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at the time the juvenile allegedly committed an offense that would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the court finds probable cause, the court shall transfer the case to the superior court for trial as in the case of adults.

**"§ 7B-2201. Fingerprinting juvenile transferred to superior court.**

When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of Investigation.

**"§ 7B-2202. Probable cause hearing.**

(a) The court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. The hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(b) At the probable cause hearing:

- (1) A prosecutor shall represent the State;
- (2) The juvenile shall be represented by counsel;
- (3) The juvenile may testify, call, and examine witnesses, and present evidence; and
- (4) Each witness shall testify under oath or affirmation and be subject to cross-examination.

(c) The State shall by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

- (1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed in connection with the case in issue, when stated in a report by that person, is admissible in evidence;



(2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in a person other than the juvenile, lack of consent of the owner, possessor, or custodian of property to the breaking or entering of premises, chain of custody, and authenticity of signatures.

(d) Counsel for the juvenile may waive in writing the right to the hearing and stipulate to a finding of probable cause.

(e) If probable cause is found and transfer to superior court is not required by G.S. 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

(f) If the court does not find probable cause for a felony offense, the court shall:

(1) Dismiss the proceeding, or

(2) If the court finds probable cause to believe that the juvenile committed a lesser included offense that would constitute a misdemeanor if committed by an adult, either proceed to an adjudicatory hearing or set a date for that hearing.

**"§ 7B-2203. Transfer hearing.**

(a) At the transfer hearing, the prosecutor and the juvenile may be heard and may offer evidence, and the juvenile's attorney may examine any court or probation records, or other records the court may consider in determining whether to transfer the case.

(b) In the transfer hearing, the court shall determine whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court and shall consider the following factors:

(1) The age of the juvenile;

(2) The maturity of the juvenile;

(3) The intellectual functioning of the juvenile;

(4) The prior record of the juvenile;

(5) Prior attempts to rehabilitate the juvenile;

(6) Facilities or programs available to the court prior to the expiration of the court's jurisdiction under this Subchapter and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;

(7) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and

(8) The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.

(c) Any order of transfer shall specify the reasons for transfer. When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony.

(d) If the court does not transfer the case to superior court, the court shall either proceed to an adjudicatory hearing or set a date for that hearing.

**"§ 7B-2204. Right to pretrial release; detention.**

Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility.

Should the juvenile be found guilty, or enter a plea of guilty or no contest to a criminal offense in superior court and receive an active sentence, then immediate transfer to the Department of Correction shall be ordered. Until such time as the juvenile is transferred to the Department of Correction, the juvenile may be detained in a holdover facility. The juvenile may not be detained in a detention facility pending transfer to the Department of Correction.

The juvenile may be kept by the Department of Correction as a safekeeper until the juvenile is placed in an appropriate correctional program.

**"ARTICLE 23.**

**"Discovery.**

**"§ 7B-2300. Disclosure of evidence by petitioner.**

(a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be delinquent, the court shall order the petitioner:

- (1) To permit the juvenile to inspect and copy any relevant written or recorded statements within the possession, custody, or control of the petitioner made by the juvenile or any other party charged in the same action; and
- (2) To divulge, in written or recorded form, the substance of any oral statement made by the juvenile or any other party charged in the same action.

(b) Names of Witnesses. – Upon motion of the juvenile, the court shall order the petitioner to furnish the names of persons to be called as witnesses. A copy of the record of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon the juvenile's motion if accessible to the petitioner.

(c) Documents and Tangible Objects. – Upon motion of the juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof:

- (1) Which are within the possession, custody, or control of the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged; and
- (2) Which are material to the preparation of the defense, are intended for use by the petitioner as evidence, or were obtained from or belong to the juvenile.

(d) Reports of Examinations and Tests. – Upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect and copy results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case, within the possession, custody, or control of the petitioner. In addition upon motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it or tests or experiments made in connection with the evidence in the case if it is available to the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged, and if the petitioner intends to offer the evidence at trial.

(e) Except as provided in subsections (a) through (d) of this section, this Article does not require the production of reports, memoranda, or other internal documents made by the petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in connection with the investigation or prosecution of the case or of statements made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

(f) Nothing in this section prohibits a petitioner from making voluntary disclosures in the interest of justice.

**"§ 7B-2301. Disclosure of evidence by juvenile.**

(a) Names of Witnesses. – Upon motion of the petitioner, the court shall order the juvenile to furnish to the petitioner the names of persons to be called as witnesses.

(b) Documents and Tangible Objects. – If the court grants any relief sought by the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the juvenile to permit the petitioner to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof which are within the possession, custody, or control of the juvenile and which the juvenile intends to introduce in evidence.

(c) Reports of Examinations and Tests. – If the court grants any relief sought by the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the juvenile to permit the petitioner to inspect and copy results of physical or mental examinations or of tests, measurements, or experiments made in connection with the case within the possession and control of the juvenile which the juvenile intends to introduce in evidence or which were prepared by a witness whom the juvenile intends to call if the results relate to the witness's testimony. In addition, upon motion of a petitioner, the court shall order the juvenile to permit the petitioner to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to offer the evidence or tests or experiments made in connection with the evidence in the case.

**"§ 7B-2302. Regulation of discovery; protective orders.**

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

(b) The court may permit a party seeking relief under subsection (a) of this section to submit supporting affidavits or statements to the court for in camera inspection. If thereafter the court enters an order granting relief under subsection (a) of

this section, the material submitted in camera must be available to the Court of Appeals in the event of an appeal.

**"§ 7B-2303. Continuing duty to disclose.**

If a party, subject to compliance with an order issued pursuant to this Article, discovers additional evidence prior to or during the hearing or decides to use additional evidence, and if the evidence is or may be subject to discovery or inspection under this Article, the party shall promptly notify the other party of the existence of the additional evidence or of the name of each additional witness.

**"ARTICLE 24.**

**"Hearing Procedures.**

**"§ 7B-2400. Amendment of petition.**

The court may permit a petition to be amended when the amendment does not change the nature of the offense alleged. If a motion to amend is allowed, the juvenile shall be given a reasonable opportunity to prepare a defense to the amended allegations.

**"§ 7B-2401. Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.**

The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in which a juvenile is alleged to be delinquent. No juvenile committed under this section may be placed in a situation where the juvenile will come in contact with adults committed for any purpose.

**"§ 7B-2402. Open hearings.**

All hearings authorized or required pursuant to this Subchapter shall be open to the public unless the court closes the hearing or part of the hearing for good cause, upon motion of a party or its own motion. If the court closes the hearing or part of the hearing to the public, the court may allow any victim, member of a victim's family, law enforcement officer, witness or any other person directly involved in the hearing to be present at the hearing.

In determining good cause to close a hearing or part of a hearing, the court shall consider the circumstances of the case, including, but not limited to, the following factors:

- (1) The nature of the allegations against the juvenile;
- (2) The age and maturity of the juvenile;
- (3) The benefit to the juvenile of confidentiality;
- (4) The benefit to the public of an open hearing; and
- (5) The extent to which the confidentiality of the juvenile's file will be compromised by an open hearing.

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

**"§ 7B-2403. Adjudicatory hearing.**

The adjudicatory hearing shall be held within a reasonable time in the district at the time and place the chief district court judge designates.

**"§ 7B-2404. Participation of the prosecutor.**

A prosecutor shall represent the State in contested delinquency hearings including first appearance, detention, probable cause, transfer, adjudicatory, dispositional, probation revocation, post-release supervision, and extended jurisdiction hearings.

**"§ 7B-2405. Conduct of the adjudicatory hearing.**

The adjudicatory hearing shall be a judicial process designed to determine whether the juvenile is undisciplined or delinquent. In the adjudicatory hearing, the court shall protect the following rights of the juvenile and the juvenile's parent, guardian, or custodian to assure due process of law:

- (1) The right to written notice of the facts alleged in the petition;
- (2) The right to counsel;
- (3) The right to confront and cross-examine witnesses;
- (4) The privilege against self-incrimination;
- (5) The right of discovery; and
- (6) All rights afforded adult offenders except the right to bail, the right of self-representation, and the right of trial by jury.

**"§ 7B-2406. Continuances.**

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

**"§ 7B-2407. When admissions by juvenile may be accepted.**

(a) The court may accept an admission from a juvenile only after first addressing the juvenile personally and:

- (1) Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
- (2) Determining that the juvenile understands the nature of the charge;
- (3) Informing the juvenile that the juvenile has a right to deny the allegations;
- (4) Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile;
- (5) Determining that the juvenile is satisfied with the juvenile's representation; and
- (6) Informing the juvenile of the most restrictive disposition on the charge.

(b) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile personally, the court shall determine whether there were any prior discussions involving admissions, whether the parties have entered into any arrangement with respect to the admissions and the terms thereof, and whether any improper pressure was exerted. The court may accept an admission from a juvenile only after determining that the admission is a product of informed choice.

(c) The court may accept an admission only after determining that there is a factual basis for the admission. This determination may be based upon any of the following information: a statement of the facts by the prosecutor; a written statement of the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts by the juvenile's attorney.

**"§ 7B-2408. Rules of evidence.**

If the juvenile denies the allegations of the petition, the court shall proceed in accordance with the rules of evidence applicable to criminal cases. In addition, no statement made by a juvenile to the intake counselor during the preliminary inquiry and evaluation process shall be admissible prior to the dispositional hearing.

**"§ 7B-2409. Quantum of proof in adjudicatory hearing.**

The allegations of a petition alleging the juvenile is delinquent shall be proved beyond a reasonable doubt. The allegations in a petition alleging undisciplined behavior shall be proved by clear and convincing evidence.

**"§ 7B-2410. Record of proceedings.**

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

**"§ 7B-2411. Adjudication.**

If the court finds that the allegations in the petition have been proved as provided in G.S. 7B-2409, the court shall so state. If the court finds that the allegations have not been proved, the court shall dismiss the petition with prejudice and the juvenile shall be released from secure or nonsecure custody if the juvenile is in custody.

**"§ 7B-2412. Legal effect of adjudication of delinquency.**

An adjudication that a juvenile is delinquent or commitment of a juvenile to the Office for placement in a training school shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.

**"§ 7B-2413. Predisposition investigation and report.**

The court shall proceed to the dispositional hearing upon receipt of the predisposition report. A risk and needs assessment, containing information regarding the juvenile's social, medical, psychiatric, psychological, and educational history, as well as any factors indicating the probability of the juvenile committing further delinquent acts, shall be conducted for the juvenile and shall be attached to the predisposition report. In cases where no predisposition report is available and the court makes a written finding that a report is not needed, the court may proceed with the dispositional hearing. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court shall permit the juvenile to inspect any predisposition report, including any attached risk and needs assessment, to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or rehabilitation or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the juvenile and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts

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

**"§ 7B-2414. When jeopardy attaches.**

Jeopardy attaches in an adjudicatory hearing when the court begins to hear evidence.

"ARTICLE 25.

"Dispositions.

**"§ 7B-2500. Purpose.**

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction, including the protection of the public. The court should develop a disposition in each case that:

- (1) Promotes public safety;
- (2) Emphasizes accountability and responsibility of both the parent, guardian, or custodian and the juvenile for the juvenile's conduct; and
- (3) Provides the appropriate consequences, treatment, training, and rehabilitation to assist the juvenile toward becoming a nonoffending, responsible, and productive member of the community.

**"§ 7B-2501. Dispositional hearing.**

(a) The dispositional hearing may be informal, and the court may consider written reports or other evidence concerning the needs of the juvenile.

(b) The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile.

(c) In choosing among statutorily permissible dispositions, the court shall select the most appropriate disposition both in terms of kind and duration for the delinquent juvenile. Within the guidelines set forth in G.S. 7B-2508, the court shall select a disposition that is designed to protect the public and to meet the needs and best interests of the juvenile, based upon:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

(d) The court may dismiss the case, or continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court.

**"§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

(a) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to

determine the needs of the juvenile. In the case of a juvenile adjudicated delinquent for committing an offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems it necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used for evaluation and treatment purposes only.

(b) Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment and who should pay the cost of the evaluation or treatment. The county manager, or any other person who is designated by the chair of the board of county commissioners, of the county of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court shall permit the parent, guardian, custodian, or other responsible persons to arrange for evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make necessary arrangements, the court may order the needed evaluation or treatment, surgery, or care, and the court may order the parent to pay the cost of the care pursuant to Article 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or treatment, the court shall order the county to arrange for evaluation or treatment of the juvenile and to pay for the cost of the evaluation or treatment. The county department of social services shall recommend the facility that will provide the juvenile with evaluation or treatment.

(c) If the court believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by the court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the



juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

**"§ 7B-2503. Dispositional alternatives for undisciplined juveniles.**

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
  - a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or

records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

- (2) Place the juvenile under the protective supervision of a court counselor for a period of up to three months, with an extension of an additional three months in the discretion of the court.
- (3) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
  - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.

**"§ 7B-2504. Conditions of protective supervision for undisciplined juveniles.**

The court may place a juvenile on protective supervision pursuant to G.S. 7B-2503 so that the court counselor may (i) assist the juvenile in securing social, medical, and educational services and (ii) visit and work with the family as a unit to ensure the juvenile is provided proper supervision and care. The court may impose any combination of the following conditions of protective supervision that are related to the needs of the juvenile, including:

- (1) That the juvenile shall remain on good behavior and not violate any laws;
- (2) That the juvenile attend school regularly;
- (3) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades;
- (4) That the juvenile not associate with specified persons or be in specified places;
- (5) That the juvenile abide by a prescribed curfew;
- (6) That the juvenile report to a court counselor as often as required by a court counselor;
- (7) That the juvenile be employed regularly if not attending school; and
- (8) That the juvenile satisfy any other conditions determined appropriate by the court.

**"§ 7B-2505. Contempt of court for undisciplined juveniles.**

Upon motion of the court counselor or on the court's own motion, the court may issue an order directing a juvenile who has been adjudicated undisciplined to appear and show cause why the juvenile should not be held in contempt for willfully failing to comply with an order of the court. The first time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed 24 hours. The second time the juvenile is held in contempt, the court may

order the juvenile confined in an approved detention facility for a period not to exceed three days. The third time and all subsequent times the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed five days. The timing of any confinement under this section shall be determined by the court in its discretion. In no event shall a juvenile held in contempt pursuant to this section be confined for more than 14 days in one 12-month period.

**"§ 7B-2506. Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
  - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the

juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

- (2) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
  - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.
- (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months.
- (4) Require restitution, full or partial, up to five hundred dollars (\$500.00), payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The court may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
- (5) Impose a fine related to the seriousness of the juvenile's offense. If the juvenile has the ability to pay the fine, it shall not exceed the maximum fine for the offense if committed by an adult.
- (6) Order the juvenile to perform up to 100 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months.
- (7) Order the juvenile to participate in the victim-offender reconciliation program.
- (8) Place the juvenile on probation under the supervision of a court counselor, as specified in G.S. 7B-2509.
- (9) Order that the juvenile shall not be licensed to operate a motor vehicle in the State of North Carolina for as long as the court retains jurisdiction over the juvenile or for any shorter period of time. The clerk of court shall notify the Division of Motor Vehicles of that order.

- (10) Impose a curfew upon the juvenile.
- (11) Order that the juvenile not associate with specified persons or be in specified places.
- (12) Impose confinement on an intermittent basis in an approved detention facility. Confinement shall be limited to not more than five 24-hour periods, the timing of which is determined by the court in its discretion.
- (13) Order the juvenile to cooperate with placement in a wilderness program.
- (14) Order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or in a group home other than a multipurpose group home operated by a State agency.
- (15) Place the juvenile on intensive probation under the supervision of a court counselor.
- (16) Order the juvenile to cooperate with a supervised day program requiring the juvenile to be present at a specified place for all or part of every day or of certain days. The court also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision.
- (17) Order the juvenile to participate in a regimented training program.
- (18) Order the juvenile to submit to house arrest.
- (19) Suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by the juvenile and specified in the dispositional order. The conditions shall not exceed the allowable dispositions for the level under which disposition is being imposed.
- (20) Order that the juvenile be confined in an approved juvenile detention facility for a term of up to 14 24-hour periods, which confinement shall not be imposed consecutively with intermittent confinement pursuant to subdivision (12) of this section at the same dispositional hearing. The timing of this confinement shall be determined by the court in its discretion.
- (21) Order the residential placement of a juvenile in a multipurpose group home operated by a State agency.
- (22) Require restitution of more than five hundred dollars (\$500.00), full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of an offense committed by the juvenile. The court may determine the amount, terms, and conditions of restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of the restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the

juvenile does not have, and could not reasonably acquire, the means to make restitution.

(23) Order the juvenile to perform supervised community service of not less than 100 hours and not more than 200 hours, consistent with the juvenile's age, skill, and ability, specifying the nature of work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense.

(24) Commit the juvenile to the Office for placement in a training school in accordance with G.S. 7B-2512 for a period of not less than six months.

**"§ 7B-2507. Delinquency history levels.**

(a) Generally. – The delinquency history level for a delinquent juvenile is determined by calculating the sum of the points assigned to each of the juvenile's prior adjudications and to the juvenile's probation status, if any, that the court finds to have been proved in accordance with this section.

(b) Points. – Points are assigned as follows:

(1) For each prior adjudication of a Class A through E felony offense, 4 points.

(2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.

(3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.

(4) If the juvenile was on probation at the time of offense, 2 points.

(c) Delinquency History Levels. – The delinquency history levels are:

(1) Low – No more than 1 point.

(2) Medium – At least 2, but not more than 3 points.

(3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent for more than one offense in a single session of district court, only the adjudication for the offense with the highest point total is used.

(e) Classification of Prior Adjudications From Other Jurisdictions. – Except as otherwise provided in this subsection, an adjudication occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina

that is classified as a Class I felony or higher, the conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior adjudication.
- (3) A copy of records maintained by the Division of Criminal Information or by the Office.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication exists and that the juvenile before the court is the same person as the juvenile named in the prior adjudication. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information or of the Office, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, 'a copy' includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior adjudications. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate.

**"§ 7B-2508. Dispositional limits for each class of offense and delinquency history level.**

(a) Offense Classification. – The offense classifications are as follows:

- (1) Violent – Adjudication of a Class A through E felony offense;
- (2) Serious – Adjudication of a Class F through I felony offense or a Class A1 misdemeanor;
- (3) Minor – Adjudication of a Class 1, 2, or 3 misdemeanor.

(b) Delinquency History Levels. – A delinquency history level shall be determined for each delinquent juvenile as provided in G.S. 7B-2507.

(c) Level 1 – Community Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (13) of G.S. 7B-2506. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the

appropriate community resources available to meet those needs, and the protection of the public.

(d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (23) of G.S. 7B-2506, but shall provide for at least one of the intermediate dispositions authorized in subdivisions (13) through (23) of G.S. 7B-2506. However, notwithstanding any other provision of this section, a court may impose a Level 3 disposition if the juvenile has previously received a Level 3 disposition in a prior juvenile action. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public.

(e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 3 disposition shall commit the juvenile to the Office for placement in a training school in accordance with G.S. 7B-2506(24). However, a court may impose a Level 2 disposition rather than a Level 3 disposition if the court submits written findings on the record that substantiate extraordinary needs on the part of the offending juvenile.

(f) Dispositions for Each Class of Offense and Delinquency History Level; Disposition Chart Described. – The authorized disposition for each class of offense and delinquency history level is as specified in the chart below. Delinquency history levels are indicated horizontally on the top of the chart. Classes of offense are indicated vertically on the left side of the chart. Each cell on the chart indicates which of the dispositional levels described in subsections (c) through (e) of this section are prescribed for that combination of offense classification and delinquency history level:

| <u>OFFENSE</u> | <u>DELINQUENCY HISTORY</u> |                     |                     |
|----------------|----------------------------|---------------------|---------------------|
|                | <u>LOW</u>                 | <u>MEDIUM</u>       | <u>HIGH</u>         |
| <u>VIOLENT</u> | <u>Level 2 or 3</u>        | <u>Level 3</u>      | <u>Level 3</u>      |
| <u>SERIOUS</u> | <u>Level 1 or 2</u>        | <u>Level 2</u>      | <u>Level 2 or 3</u> |
| <u>MINOR</u>   | <u>Level 1</u>             | <u>Level 1 or 2</u> | <u>Level 2.</u>     |

(g) Notwithstanding subsection (f) of this section, a juvenile who has been adjudicated for a minor offense may be committed to a Level 3 disposition if the juvenile has been adjudicated of four or more prior offenses. For purposes of determining the number of prior offenses under this subsection, each successive offense is one that was committed after adjudication of the preceding offense.



(h) If a juvenile is adjudicated of more than one offense during a session of juvenile court, the court shall consolidate the offenses for disposition and impose a single disposition for the consolidated offenses. The disposition shall be specified for the class of offense and delinquency history level of the most serious offense.

**"§ 7B-2509. Conditions of probation; violation of probation.**

(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2506(8), the court counselor shall have the authority to visit the juvenile where the juvenile resides. The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:

- (1) That the juvenile shall remain on good behavior.
- (2) That the juvenile shall not violate any laws.
- (3) That the juvenile shall not violate any reasonable and lawful rules of a parent, guardian, or custodian.
- (4) That the juvenile attend school regularly.
- (5) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades.
- (6) That the juvenile not associate with specified persons or be in specified places.
- (7) That the juvenile:
  - a. Refrain from use or possession of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act;
  - b. Refrain from use or possession of any alcoholic beverage regulated under Chapter 18B of the General Statutes; and
  - c. Submit to random drug testing.
- (8) That the juvenile abide by a prescribed curfew.
- (9) That the juvenile submit to a warrantless search at reasonable times.
- (10) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (11) That the juvenile report to a court counselor as often as required by the court counselor.
- (12) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2506(4), (5), and (22).
- (13) That the juvenile be employed regularly if not attending school.
- (14) That the juvenile satisfy any other conditions determined appropriate by the court.

(b) In addition to the regular conditions of probation specified in subsection (a) of this section, the court may, at a dispositional hearing or any subsequent hearing, order the juvenile to comply, if directed to comply by the chief court counselor, with one or more of the following conditions:

- (1) Perform up to 20 hours of community service;

- (2) Submit to substance abuse monitoring and treatment;
- (3) Participate in a life skills or an educational skills program administered by the Office;
- (4) Cooperate with electronic monitoring; and
- (5) Cooperate with intensive supervision.

However, the court shall not give the chief court counselor discretion to impose the conditions of either subsection (4) or (5) of this section unless the juvenile is subject to Level 2 dispositions pursuant to G.S. 7B-2508 or subsection (d) of this section.

(c) An order of probation shall remain in force for a period not to exceed one year from the date entered. Prior to expiration of an order of probation, the court may extend it for an additional period of one year after a hearing, if the court finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile.

(d) On motion of the court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this Subchapter and only after notice and a hearing.

(e) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of probation set by the court, the court may continue the original conditions of probation, modify the conditions of probation, or, except as provided in subsection (f) of this section, order a new disposition at the next higher level on the disposition chart in G.S. 7B-2508. In the court's discretion, part of the new disposition may include an order of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508.

(f) A court shall not order a Level 3 disposition for violation of the conditions of probation by a juvenile adjudicated delinquent for an offense classified as minor under G.S. 7B-2508.

**"§ 7B-2510. Termination of probation.**

At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. The finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the court counselor or, at the election of the court, the order may be entered with the juvenile present after notice and a hearing.

**"§ 7B-2511. Dispositional order.**

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

**"§ 7B-2512. Commitment of delinquent juvenile to Office.**

(a) Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Office for placement in a

training school. Commitment shall be for an indefinite term of at least six months. In no event shall the term exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Office for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult;
- (2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Office for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
- (3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Office for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

No juvenile shall be committed to a training school beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Office pursuant to G.S. 7B-2514 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a training school, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Office pursuant to G.S. 7B-2514 and shall notify the juvenile of that determination.

(b) The court may commit a juvenile to a definite term of not less than six months and not more than two years if the court finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a training school.

(c) The chief court counselor shall have the responsibility for transporting the juvenile to the training school designated by the Office. The juvenile shall be accompanied to the training school by a person of the same sex.

(d) The chief court counselor shall ensure that the records requested by the Office accompany the juvenile upon transportation for admittance to a training school or, if not obtainable at the time of admission, are sent to the training school within 15 days of the admission. If records requested by the Office for admission do not exist, to the best knowledge of the chief court counselor, the chief court counselor shall so stipulate in writing to the training school. If such records do exist, but the chief court counselor is unable to obtain copies of them, a district court may order that the records from public agencies be made available to the training school. Records that are confidential by law shall remain confidential and the Office shall be bound by the specific laws governing the confidentiality of these records. All records shall be used in a manner consistent with the best interests of the juvenile.

(e) A commitment order accompanied by information requested by the Office shall be forwarded to the Office. The Office shall place the juvenile in the training school that would best provide for the juvenile's needs and shall notify the committing court. The Office may assign a juvenile committed for delinquency to any institution or other program of the Office or licensed by the Office, which program is appropriate to the needs of the juvenile.

(f) When the court commits a juvenile to the Office for placement in a training school, the Office shall prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

(g) Commitment of a juvenile to the Office for placement in a training school does not terminate the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or custodian. Commitment of a juvenile to the Office for placement in a training school transfers only physical custody of the juvenile. Legal custody remains with the parent, guardian, custodian, agency, or institution in whom it was vested.

(h) Pending placement of a juvenile with the Office, the court may house a juvenile who has been adjudicated guilty of a delinquent act that would be a Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the court, based on the information provided by the court counselor, determines that no acceptable alternative placement is available and the protection of the public requires that the juvenile be housed in a holdover facility.

(i) A juvenile who is committed to the Office for placement in a training school shall be tested for the use of controlled substances or alcohol. The results of this initial test shall be incorporated into the plan of care as provided in subsection (f) of this section and used for evaluation and treatment purposes only.

(j) When a juvenile is committed to the Office for placement in a training school for an offense that would have been a Class A or B1 felony if committed by an adult, the chief court counselor shall notify the victim and members of the victim's immediate family that the victim, or the victim's immediate family members may request in writing to be notified in advance of the juvenile's scheduled release date in accordance with G.S. 7B-2513(d).

**"§ 7B-2513. Post-release supervision planning; release.**

(a) The Office shall be responsible for evaluation of the progress of each juvenile at least once every six months as long as the juvenile remains in the care of the Office. Any determination that the juvenile should remain in the care of the Office for an additional period of time shall be based on the Office's determination that the juvenile requires additional treatment or rehabilitation pursuant to G.S. 7B-2514. If the Office determines that a juvenile is ready for release, the Office shall initiate a post-release supervision planning process. The post-release supervision planning process shall be defined by rules and regulations of the Office, but shall include the following:

- (1) Written notification shall be given to the court that ordered commitment.
- (2) A post-release supervision planning conference shall be held involving as many as possible of the following: the juvenile, the juvenile's parent, guardian, or custodian, court counselors who have supervised

the juvenile on probation or will supervise the juvenile on post-release supervision, and staff of the facility that found the juvenile ready for release. The planning conference shall include personal contact and evaluation rather than telephonic notification.

(3) The planning conference participants shall consider, based on the individual needs of the juvenile and pursuant to rules adopted by the Office, placement of the juvenile in any program under the auspices of the Office, including the juvenile court services programs that, in the judgment of the Office, would be appropriate transitional placement, pending release under G.S. 7B-2512.

(b) The Office shall develop the plan in writing and base the terms on the needs of the juvenile and the protection of the public. Every plan shall require the juvenile to complete at least 90 days, but not more than one year, of post-release supervision.

(c) The Office shall release a juvenile under a plan of post-release supervision at least 90 days prior to:

(1) Completion of the juvenile's definite term of commitment; or

(2) The juvenile's twenty-first birthday if the juvenile has been committed to the Office for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult.

(3) The juvenile's nineteenth birthday if the juvenile has been committed to the Office for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).

(4) The juvenile's eighteenth birthday if the juvenile has been committed to the Office for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, at least 45 days before releasing to post-release supervision a juvenile who was committed for a Class A or B1 felony, the Office shall notify, by first-class mail at the last known address:

(1) The juvenile;

(2) The juvenile's parent, guardian, or custodian;

(3) The district attorney of the district where the juvenile was adjudicated;

(4) The head of the enforcement agency that took the juvenile into custody; and

(5) The victim and any of the victim's immediate family members who have requested in writing to be notified.

The notification shall include only the juvenile's name, offense, date of commitment, and date proposed for release. A copy of the notice shall be sent to the appropriate clerk of superior court for placement in the juvenile's court file.

(e) The Office may release a juvenile under an indefinite commitment to post-release supervision only after the juvenile has been committed to the Office for placement in a training school for a period of at least six months.

(f) A juvenile committed to the Office for placement in a training school for a definite term shall receive credit toward that term for the time the juvenile spends on post-release supervision.

(g) A juvenile on post-release supervision shall be supervised by a court counselor. Post-release supervision shall be terminated by order of the court.

**"§ 7B-2514. Notification of extended commitment; plan of treatment.**

(a) If the Office does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment.

(b) The Office shall modify the plan of care or treatment developed pursuant to G.S. 7B-2512(f) to specify (i) the specific goals and outcomes that require additional time for care or treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist the juvenile's family in creating an environment that will increase the likelihood that the efforts to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Office may place the juvenile in a setting other than a training school.

(c) The juvenile and the juvenile's parent, guardian, or custodian may request a review by the court of the Office's decision to extend the juvenile's commitment beyond the juvenile's eighteenth birthday or maximum commitment period, in which case the court shall conduct a review hearing. The court may modify the Office's decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's parent, guardian, or custodian does not request a review of the Office's decision, the Office's decision shall become the juvenile's new maximum commitment period.

**"§ 7B-2515. Revocation of post-release supervision.**

On motion of the court counselor providing post-release supervision or motion of the juvenile, or on the court's own motion, and after notice, the court may hold a hearing to review the progress of any juvenile on post-release supervision at any time during the period of post-release supervision. With respect to any hearing involving allegations that the juvenile has violated the terms of post-release supervision, the juvenile:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations in the motion, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of post-release supervision to the extent that post-release supervision should be revoked;
- (2) Shall be represented by an attorney at the hearing;

- (3) Shall have the right to confront and cross-examine witnesses; and
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of the juvenile's contentions. A record of the proceeding shall be made and preserved in the juvenile's record.

If the court determines by the greater weight of the evidence that the juvenile has violated the terms of post-release supervision, the court may revoke the post-release supervision or make any other disposition authorized by this Subchapter.

If the court revokes post-release supervision, the juvenile shall be returned to the Office for placement in a training school for an indefinite term of at least 90 days, provided, however, that no juvenile shall remain committed to the Office for placement in a training school past:

- (1) The juvenile's twenty-first birthday if the juvenile has been committed to the Office for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult.
- (2) The juvenile's nineteenth birthday if the juvenile has been committed to the Office for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).
- (3) The juvenile's eighteenth birthday if the juvenile has been committed to the Office for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

**"§ 7B-2516. Transfer authority of Governor.**

The Governor may order transfer of any person less than 18 years of age from any jail or penal facility of the State to one of the residential facilities operated by the Office in appropriate circumstances, provided the Governor shall consult with the Office concerning the feasibility of the transfer in terms of available space, staff, and suitability of program.

When an inmate, committed to the Department of Correction, is transferred by the Governor to a residential program operated by the Office, the Office may release the juvenile based on the needs of the juvenile and the best interests of the State. Transfer shall not divest the probation or parole officer of the officer's responsibility to supervise the inmate on release.

**"ARTICLE 26.**

**"Modification and Enforcement of Dispositional Orders; Appeals.**

**"§ 7B-2600. Authority to modify or vacate.**

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

(b) In a case of delinquency, the court may reduce the nature or the duration of the disposition on the basis that it was imposed in an illegal manner or is unduly severe

with reference to the seriousness of the offense, the culpability of the juvenile, or the dispositions given to juveniles convicted of similar offenses.

(c) In any case where the court finds the juvenile to be delinquent or undisciplined, the jurisdiction of the court to modify any order or disposition made in the case shall continue (i) during the minority of the juvenile, (ii) until the juvenile reaches the age of 19 years if the juvenile has been adjudicated delinquent and committed to the Office for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a), (iii) until the juvenile reaches the age of 21 years if the juvenile has been adjudicated delinquent and committed for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree rape pursuant to G.S. 14-27.2, or first-degree sexual offense pursuant to G.S. 14-27.4 if committed by an adult, or (iv) until terminated by order of the court.

**"§ 7B-2601. Request for modification for lack of suitable services.**

If the Office finds that any juvenile committed to the Office's care is not suitable for its program, the Office may make a motion in the cause so that the court may make an alternative disposition that is consistent with G.S. 7B-2508.

**"§ 7B-2602. Right to appeal.**

Upon motion of a proper party as defined in G.S. 7B-2604, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. Notice of appeal shall be given in open court at the time of the hearing or in writing within 10 days after entry of the order. However, if no disposition is made within 60 days after entry of the order, written notice of appeal may be given within 70 days after such entry. A final order shall include:

- (1) Any order finding absence of jurisdiction;
- (2) Any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is delinquent or undisciplined; or
- (4) Any order modifying custodial rights.

**"§ 7B-2603. Right to appeal transfer decision.**

(a) Notwithstanding G.S. 7B-2602, any order transferring jurisdiction of the district court in a juvenile matter to the superior court may be appealed to the superior court for a hearing on the record. Notice of the appeal must be given in open court or in writing within 10 days after the transfer hearing in the district court. A juvenile who fails to appeal the transfer order to the superior court waives the right to raise the issue of transfer before the Court of Appeals until final disposition of the matter in superior court. The clerk of superior court shall provide the district attorney with a copy of any written notice of appeal filed by the attorney for the juvenile. Upon expiration of the 10 day period in which an appeal may be entered, if an appeal has been entered and not withdrawn, the clerk shall transfer the case to the superior court docket. The superior court shall, within a reasonable time, review the record of the transfer hearing for abuse of discretion by the juvenile court in the issue of transfer. The superior court shall not review the findings as to probable cause for the underlying offense.



(b) Once an order of transfer has been entered by the district court, the juvenile has the right to be considered for pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify the person or persons to whom the juvenile may be released. Pending release, the court shall order that the juvenile be detained in a detention facility while awaiting trial. The court may order the juvenile to be held in a holdover facility as defined by G.S. 7B-1501 at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the court finds that it would be inconvenient to return the juvenile to the detention facility.

(c) If an appeal of the transfer order is taken, the superior court shall enter an order either (i) remanding the case to the juvenile court for adjudication or (ii) upholding the transfer order. If the superior court remands the case to juvenile court for adjudication and the juvenile has been granted pretrial release provided in G.S. 15A-533 and G.S. 15A-534, the obligor shall be released from the juvenile's bond upon the district court's review of whether the juvenile shall be placed in secure or nonsecure custody as provided in G.S. 7B-1903.

(d) The superior court order shall be an interlocutory order, and the issue of transfer may be appealed to the Court of Appeals only after the juvenile has been convicted in superior court.

**"§ 7B-2604. Proper parties for appeal.**

An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian, or the State. The State's appeal is limited to the following orders in delinquency or undisciplined cases:

- (1) An order finding a State statute to be unconstitutional; and
- (2) Any order which terminates the prosecution of a petition by upholding the defense of double jeopardy, by holding that a cause of action is not stated under a statute, or by granting a motion to suppress.

**"§ 7B-2605. Disposition pending appeal.**

Pending disposition of an appeal, the release of the juvenile, with or without conditions, should issue in every case unless the court orders otherwise. For compelling reasons which must be stated in writing, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State.

**"§ 7B-2606. Disposition after appeal.**

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

"ARTICLE 27.

"Authority Over Parents of Juveniles  
Adjudicated Delinquent or Undisciplined.

**"§ 7B-2700. Appearance in court.**

The parent, guardian, or custodian of a juvenile under the jurisdiction of the juvenile court shall attend the hearings of which the parent, guardian, or custodian receives notice. The court may excuse the appearance of either or both parents or the guardian or custodian at a particular hearing or all hearings. Unless so excused, the willful failure of a parent, guardian, or custodian to attend a hearing of which the parent, guardian, or custodian has notice shall be grounds for contempt.

**"§ 7B-2701. Parental responsibility classes.**

The court may order the parent, guardian, or custodian of a juvenile who has been adjudicated undisciplined or delinquent to attend parental responsibility classes if those classes are available in the judicial district in which the parent, guardian, or custodian resides.

**"§ 7B-2702. Medical, surgical, psychiatric, or psychological evaluation or treatment of juvenile or parent.**

(a) If the court orders medical, surgical, psychiatric, psychological, or other evaluation or treatment pursuant to G.S. 7B-2502, the court may order the parent or other responsible parties to pay the cost of the treatment or care ordered.

(b) At the dispositional hearing or a subsequent hearing, if the court finds that it is in the best interests of the juvenile for the parent to be directly involved in the juvenile's evaluation or treatment, the court may order that person to participate in medical, psychiatric, psychological, or other evaluation or treatment of the juvenile. The cost of the evaluation or treatment shall be paid pursuant to G.S. 7B-2502.

(c) At the dispositional hearing or a subsequent hearing, the court may determine whether the best interests of the juvenile require that the parent undergo psychiatric, psychological, or other evaluation or treatment or counseling directed toward remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent. If the court finds that the best interests of the juvenile require the parent undergo evaluation or treatment, it may order that person to comply with a plan of evaluation or treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent upon that person's compliance with the plan of evaluation or treatment.

(d) In cases in which the court has ordered the parent of the juvenile to comply with or undergo evaluation or treatment, the court may order the parent to pay the cost of evaluation or treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent upon the parent's compliance with a plan of evaluation or treatment, the court may charge the cost of the evaluation or treatment to the county of the juvenile's residence if the court finds the parent is unable to pay the cost of the evaluation or treatment. In all other cases, if the court finds the parent is unable to pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court may order the parent to receive evaluation or treatment currently available from the area mental health program that serves the parent's catchment area.

**"§ 7B-2703. Compliance with orders of court.**

(a) The court may order the parent, guardian, or custodian, to the extent that person is able to do so, to provide transportation for a juvenile to keep an appointment with a court counselor or to comply with other orders of the court.

(b) The court may order a parent, guardian, or custodian to cooperate with and assist the juvenile in complying with the terms and conditions of probation or other orders of the court.

**"§ 7B-2704. Payment of support or other expenses; assignment of insurance coverage.**

At the dispositional hearing or a subsequent hearing, if the court finds that the parent is able to do so, the court may order the parent to:

- (1) Pay a reasonable sum that will cover in whole or in part the support of the juvenile. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4;
- (2) Pay a fee for probation supervision or residential facility costs;
- (3) Assign private insurance coverage to cover medical costs while the juvenile is in secure detention, training school, or other out-of-home placement; and
- (4) Pay court-appointed attorneys' fees.

All money paid by a parent pursuant to this section shall be paid into the office of the clerk of superior court.

If the court places a juvenile in the custody of a county department of social services and if the court finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the State or federal government or any subdivision thereof.

**"§ 7B-2705. Employment discrimination unlawful.**

No employer may discharge, demote, or deny a promotion or other benefit of employment to any employee because the employee complies with the provisions of this Article. The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to that Article.

**"§ 7B-2706. Contempt for failure to comply.**

Upon motion of the court counselor or prosecutor or upon the court's own motion, the court may issue an order directing the parent, guardian, or custodian to appear and show cause why the parent, guardian, or custodian should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this Article.

**"ARTICLE 28.**

**"Interstate Compact on Juveniles.**

**"§ 7B-2800. Execution of Compact.**

The Governor is hereby authorized and directed to execute a Compact on behalf of this State with any other state or states legally joining therein in the form substantially as follows: The contracting states solemnly agree.

**"§ 7B-2801. Findings and purposes.**

Juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away, are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others. The cooperation of the states party to this Compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

- (1) Cooperative supervision of delinquent juveniles on probation or parole;
- (2) The return, from one state to another, of delinquent juveniles who have escaped or absconded;
- (3) The return, from one state to another, of nondelinquent juveniles who have run away from home; and
- (4) Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

In carrying out the provisions of this Compact, the party states shall be guided by the noncriminal, reformative, and protective policies which guide their laws concerning delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states party to this Compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

**"§ 7B-2802. Existing rights and remedies.**

All remedies and procedures provided by this Compact are in addition to and not in substitution for other rights, remedies, and procedures and are not in derogation of parental rights and responsibilities.

**"§ 7B-2803. Definitions.**

For the purposes of this Compact, 'delinquent juvenile' means any juvenile who has been adjudged delinquent and who, at the time the provisions of this Compact are invoked, is still subject to the jurisdiction of the court that has made adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of the court; 'probation or parole' means any kind of post-release supervision of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected, or dependent juveniles; 'state' means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

**"§ 7B-2804. Return of runaways.**

(a) The parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of the parent, guardian, person, or agency may petition the appropriate court in the demanding

state for the issuance of a requisition for the juvenile's return. The petition shall state the name and age of the juvenile, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of the running away, the juvenile's location if known at the time application is made, and any other facts that may tend to show that the juvenile who has run away is endangering the juvenile's own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Any further affidavits and other documents as may be deemed proper may be submitted with the petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is in the best interests of the juvenile to compel the juvenile's return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of the juvenile. The requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person, or agency entitled to legal custody, and that it is in the best interests and for the protection of the juvenile that the juvenile be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at the time when the juvenile runs away, the court may issue a requisition for the return of the juvenile upon its own motion, regardless of the consent of the parent, guardian, person, or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing that person to take into custody and detain the juvenile. The detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon the order shall be delivered over to the officer whom the court has appointed to receive the juvenile unless the juvenile first is taken before a judge of a court in the state, who shall inform the juvenile of the demand made for the juvenile's return, and who may appoint counsel or guardian ad litem for the juvenile. If the court finds that the requisition is in order, the court shall deliver the juvenile over to the officer appointed to receive the juvenile by the court demanding the juvenile. The court, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person, or agency entitled to legal custody, the juvenile may be taken into custody without a requisition and brought before a judge of the appropriate court who may appoint counsel or guardian ad litem for the juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for the juvenile's own protection and welfare, for such a time not exceeding 90 days as will enable the return of the juvenile to another state party to this Compact pursuant to a requisition for return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein the juvenile is found, any criminal charge, or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in the state, or if the juvenile is suspected of having committed within the state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of the state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport the juvenile through any and all states party to this Compact, without interference. Upon return of the juvenile to the state from which the juvenile ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) The state to which the juvenile is returned under this Article shall be responsible for payment of the transportation costs of return.

(c) The term 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person, or agency entitled to the legal custody of the minor.

**"§ 7B-2805. Return of escapees and absconders.**

(a) The appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody a delinquent juvenile has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of the delinquent juvenile. The requisition shall state the name and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a delinquent juvenile, the circumstances of the breach of the terms of probation or parole or of the juvenile's escape from an institution or agency vested with legal custody or supervision, and the location of the delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects the delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Any further affidavits and documents as may be deemed proper may be submitted with the requisition. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of the law governing records of the appropriate court. Upon the receipt of a requisition demanding

the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing the person to take into custody and detain such delinquent juvenile. The detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon the order shall be delivered over to the officer whom the appropriate person or authority demanding the juvenile has appointed to receive the juvenile, unless the juvenile is first taken forthwith before a judge of an appropriate court in the state, who shall inform the juvenile of the demand made for the return, and who may appoint counsel or guardian ad litem for the juvenile. If the judge of the court finds that the requisition is in order, the judge shall deliver the delinquent juvenile over to the officer whom the appropriate person or authority demanding the juvenile appointed to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with legal custody or supervision in any state party to this Compact, the person may be taken into custody in any other state party to this Compact without a requisition. But in that event, the juvenile shall be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for the person and who shall determine after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for a length of time, not exceeding 90 days, as will enable detention of the juvenile under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent who has either absconded while on probation or parole or escaped from an institution or agency vested with legal custody or supervision, there is pending in the state wherein the juvenile is detained any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act committed in the state, or if the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency within the state, the juvenile shall not be returned without the consent of the state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport the delinquent juvenile through any and all states party to this Compact, without interference. Upon return to the state from which the juvenile escaped or absconded, the delinquent juvenile shall be subject to any further proceedings appropriate under the laws of that state.

(b) The state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of transportation costs of the return.

**"§ 7B-2806. Voluntary return procedure.**

Any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with legal custody or supervision in any state party to this Compact, and any juvenile who has run away from any state party to this Compact, who is taken into custody without a requisition in another state party to

this Compact under the provisions of G.S. 7B-2804(a) or G.S. 7B-2805(a), may consent to the immediate return of the juvenile to the state from which the juvenile absconded, escaped, or ran away. Consent shall be given by the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, by executing or subscribing a writing in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to return of the juvenile to the demanding state. Before consent is executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of the juvenile's rights under this Compact. When the consent has been duly executed, it shall be forwarded to and filed with the Compact Administrator of the state in which the court is located, and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the duly accredited officer or officers of the state demanding return of the juvenile and shall cause to be delivered to the officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order the juvenile to return unaccompanied to the state and shall provide the juvenile with a copy of the court order; in that event a copy of the consent shall be forwarded to the Compact Administrator of the state to which the juvenile or delinquent juvenile is ordered to return.

**"§ 7B-2807. Cooperative supervision of probationers and parolees.**

(a) That the duly constituted judicial and administrative authorities of a state party to this Compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this Compact (herein called 'receiving state') while on probation or parole, and the receiving state shall accept the delinquent juvenile, if the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting permission, opportunity shall be given to the receiving state to make investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies, and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this Compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted, the sending state may transfer the supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning the delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any delinquent juvenile on probation or parole. For that purpose, no formalities will be required other than establishing the authority of



the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against the juvenile within the receiving state any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for any act committed in the state or if the juvenile is suspected of having committed within the state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this Compact without interference.

(d) The sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

**"§ 7B-2808. Responsibility for costs.**

(a) The provisions of G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d) shall not be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities therefor.

(b) Nothing in this Compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d).

**"§ 7B-2809. Detention practices.**

To every extent possible, it shall be the policy of states party to this Compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup, nor be detained or transported in association with criminal, vicious, or dissolute persons.

**"§ 7B-2810. Supplementary agreements.**

The duly constituted administrative authorities of a state party to this Compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they find that the agreements will improve the facilities or programs available for care, treatment, and rehabilitation. Care, treatment, and rehabilitation may be provided in an institution located within any state entering into a supplementary agreement. Supplementary agreements shall:

- (1) Provide the rates to be paid for the care, treatment, and custody of delinquent juveniles taking into consideration the character of facilities, services, and subsistence furnished;
- (2) Provide that the delinquent juvenile shall be given a court hearing prior to the juvenile being sent to another state for care, treatment, and custody;

- (3) Provide that the state receiving a delinquent juvenile in one of its institutions shall act solely as agent for the state sending the delinquent juvenile;
- (4) Provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;
- (5) Provide for reasonable inspection of the institutions by the sending state;
- (6) Provide that the consent of the parent, guardian, person, or agency entitled to the legal custody of the delinquent juvenile shall be secured prior to the juvenile being sent to another state; and
- (7) Make provisions for any other matters and details as shall be necessary to protect the rights and equities of delinquent juveniles and of the cooperating states.

**"§ 7B-2811. Acceptance of federal and other aid.**

Any state party to this Compact may accept any and all donations, gifts, and grants of money, equipment, and services from the federal or any local government, or any agency thereof and from any person, firm, or corporation, for any of the purposes and functions of this Compact, and may receive and utilize, the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

**"§ 7B-2812. Compact administrators.**

The governor of each state party to this Compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more efficiently the terms and provisions of this Compact.

**"§ 7B-2813. Execution of Compact.**

This Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within the state, the form of execution to be in accordance with the laws of the executing state.

**"§ 7B-2814. Renunciation.**

This Compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this Compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the Compact to the other states party hereto. The duties and obligations of a renouncing state under G.S. 7B-2807 hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under G.S. 7B-2810 hereof shall be subject to renunciation as provided by supplementary agreements and shall not be subject to the six months' renunciation notice of the present section.

**"§ 7B-2815. Severability.**

The provisions of this Compact shall be severable and, if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency,

person, or circumstances shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**"§ 7B-2816. Authority of Governor to designate Compact Administrator.**

Pursuant to said Compact, the Governor is hereby authorized and empowered to designate an officer who shall be the Compact Administrator and who, acting jointly with like officers of other party states, shall adopt rules and regulations to carry out more effectively the terms of the Compact. The Compact Administrator shall serve subject to the pleasure of the Governor. The Compact Administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the Compact or of any supplementary agreement or agreements entered into by this State hereunder.

**"§ 7B-2817. Authority of Compact Administrator to enter into supplementary agreements.**

The Compact Administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the Compact. In the event that the supplementary agreement shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of the service.

**"§ 7B-2818. Discharging financial obligations imposed by Compact or agreement.**

The Compact Administrator, subject to the approval of the Director of the Budget, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the Compact or by any supplementary agreement entered into thereunder.

**"§ 7B-2819. Enforcement of Compact.**

The courts, departments, agencies, and officers of this State and subdivisions shall enforce this Compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

**"§ 7B-2820. Additional procedure for returning runaways not precluded.**

In addition to any procedure provided in G.S. 7B-2804 and G.S. 7B-2806 of the Compact for the return of any runaway juvenile, the particular states, the juvenile or the juvenile's parents, the courts, or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this State and the other respective party states for the return of any runaway juvenile.

**"§ 7B-2821. Proceedings for return of runaways under G.S. 7B-2804 of Compact; 'juvenile' construed.**

The judge of any court in North Carolina to which an application is made for the return of a runaway under the provisions of G.S. 7B-2804 of the Interstate Compact on Juveniles shall hold a hearing thereon to determine whether for the purposes of the

Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is in the best interests of the juvenile to compel the return of the juvenile to the state. The judge of any court in North Carolina, finding that a requisition for the return of a juvenile under the provisions of G.S. 7B-2804 of the Compact is in order, shall upon request fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding. The period of time for holding a juvenile in custody under the provisions of G.S. 7B-2804 of the Compact for the protection and welfare of the juvenile, subject to the order of a court of this State, to enable the juvenile's return to another state party to the Compact pursuant to a requisition for return from a court of that state, shall not exceed 30 days. In applying the provisions of G.S. 7B-2804 of the Compact to secure the return of a runaway from North Carolina, the courts of this State shall construe the word 'juvenile' as used in this Article to mean any person who has not reached the person's eighteenth birthday.

**"§ 7B-2822. Interstate parole and probation hearing procedures for juveniles.**

Where supervision of a parolee or probationer is being administered pursuant to the Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation. Prior to giving of notification, a hearing shall be held in accordance with this Article within a reasonable time, unless the hearing is waived by the parolee or probationer. The appropriate officer or officers of this State shall, as soon as practicable, following termination of any hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the parolee or probationer involved for a period not to exceed 10 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for a reasonable period after the hearing or waiver as may be necessary to arrange for retaking or the reincarceration.

**"§ 7B-2823. Hearing officers.**

Any hearing pursuant to this Article may be before the Administrator of the Interstate Compact on Juveniles, a deputy of the Administrator, or any other person authorized pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or probation violations, except that no hearing officer shall be the person making the allegation of violation.

**"§ 7B-2824. Due process at parole or probation violation hearing.**

With respect to any hearing pursuant to this Article, the parolee or probationer:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that the purpose of the hearing is to determine whether there is probable cause to believe that the parolee or probationer has committed a violation that may lead to a revocation of parole or probation;

- (2) Shall be permitted to advise with any persons whose assistance the parolee or probationer reasonably desires, prior to the hearing;
- (3) Shall have the right to confront and examine any persons who have made allegations against the parolee or probationer, unless the hearing officer determines that confrontation would present a substantial present or subsequent danger of harm to the person or persons; and
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the parolee's or probationer's contentions.

A record of the proceedings shall be made and preserved.

**"§ 7B-2825. Effect of parole or probation violation hearing outside State.**

In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to this Article, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

**"§ 7B-2826. Amendment to Interstate Compact on Juveniles concerning interstate rendition of juveniles alleged to be delinquent.**

(a) This amendment shall provide additional remedies and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of G.S. 7B-2805 and G.S. 7B-2806 of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in the case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in G.S. 7B-2805 of the Compact shall be forwarded by the judge of the court in which the petition has been filed.

**"§ 7B-2827. Out-of-State Confinement Amendment.**

(a) The Out-of-State Confinement Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this State with all other states legally joining therein in the form substantially as follows:

- (1) Whenever the fully constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, the officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving

- state, the receiving state to act in that regard solely as agent for the sending state.
- (2) Escapees and absconders who would otherwise be returned pursuant to G.S. 7B-2805 of the Compact may be confined or reconfined in the receiving state pursuant to this amendment. In any case in which the information and allegations are required to be made and furnished in a requisition pursuant to G.S. 7B-2805, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders, as provided in G.S. 7B-2805, may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.
  - (3) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.
  - (4) As used in this amendment: (i) 'sending state' means a sending state as that term is used in G.S. 7B-2807 of the Compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of G.S. 7B-2805 of the Compact; (ii) 'receiving state' means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that the state is a party to this amendment.
  - (5) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a 'Compact Institution' and shall confine persons therein as provided in subdivision (1) of this subsection unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to 'Compact Institutions' at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of the State's delinquents as may be confined in the institution.
  - (6) Persons confined in 'Compact Institutions' pursuant to the terms of this Compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from the 'Compact Institution' for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.
  - (7) All persons who may be confined in a 'Compact Institution' pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which the person would have had if confined or reconfined in an appropriate institution of the sending state. No agreement to submit to confinement or reconfinement pursuant to the

terms of this amendment may be construed as a waiver of any rights which the delinquent would have had if the person had been confined or reconfined in any appropriate institution of the sending state, except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(8) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of the costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(9) This amendment shall take initial effect when entered into by any two or more states party to the Compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be adopted by the appropriate officers of those states which have enacted this amendment.

(b) In addition to any institution in which the authorities of this State may otherwise confine or order the confinement of a delinquent juvenile, the authorities may, pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on Juveniles, confine or order the confinement of a delinquent juvenile in a Compact Institution within another party state.

"SUBCHAPTER III. JUVENILE RECORDS.

"ARTICLE 29.

"Records and Social Reports of Cases of Abuse,  
Neglect, and Dependency.

**"§ 7B-2900. Definitions.**

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter.

**"§ 7B-2901. Confidentiality of records.**

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

(b) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by the Department or under placement by the court, which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; interviews with the juvenile's family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile. The records maintained pursuant to this subsection may be examined only by order of the court except that the guardian ad litem, or juvenile, shall have the right to examine them.

(c) In the case of a child victim, the court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim.

(d) The court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem.

**"§ 7B-2902. Disclosure in child fatality or near fatality cases.**

(a) The following definitions apply in this section:

- (1) Child fatality. – The death of a child from suspected abuse, neglect, or maltreatment.
- (2) Findings and information. – A written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
  - a. The dates, outcomes, and results of any actions taken or services rendered.
  - b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
  - c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.
- (3) Near fatality. – A case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.



(4) Public agency. – Any agency of State government or its subdivisions as defined in G.S. 132-1(a).

(b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) A person is criminally charged with having caused the child fatality or near fatality; or

(2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

(d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

(1) Is not authorized by subsections (a) and (b) of this section;

(2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;

(3) Is likely to jeopardize the State's ability to prosecute the defendant;

(4) Is likely to jeopardize the defendant's right to a fair trial;

(5) Is likely to undermine an ongoing or future criminal investigation; or

(6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

(f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 7B-1413 respectively. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(g) Any public agency or its employees acting in good faith in disclosing or declining to disclose information pursuant to this section shall be immune from any criminal or civil liability that might otherwise be incurred or imposed for such action.

(h) Nothing herein shall be deemed to narrow or limit the definition of 'public records' as set forth in G.S. 132-1(a).

"ARTICLE 30.

"Juvenile Records and Social Reports of  
Delinquency and Undisciplined Cases.

"§ 7B-3000. Juvenile court records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record. The record shall include the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders, or papers filed in the proceeding.

(b) All juvenile records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. Except as provided in subsection (c) of this section, the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

- (1) The juvenile;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor; and
- (4) Court counselors.

Except as provided in subsection (c) of this section, the prosecutor may, in the prosecutor's discretion, share information obtained from a juvenile's record with law enforcement officers sworn in this State, but may not allow a law enforcement officer to photocopy any part of the record.

(c) The court may direct the clerk to 'seal' any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked 'SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT', or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.

(d) Any portion of a juvenile's record consisting of an electronic or mechanical recording of a hearing shall be transcribed only when notice of appeal has been timely given and shall be copied electronically or mechanically, only by order of the court. After the time for appeal has expired with no appeal having been filed, the court may enter a written order directing the clerk to destroy the recording of the hearing.

(e) The juvenile's record of an adjudication of delinquency for an offense that would be a felony if committed by an adult may be used by law enforcement, the magistrate, and the prosecutor for pretrial release and plea negotiating decisions.

(f) The juvenile's record of an adjudication of delinquency for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule

404(b), or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), 15A-1340.16(d), or 15A-2000(e). The record may be so used only by order of the court in the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera hearing to determine whether the record in question is admissible.

(g) Except as provided in subsection (d) of this section, a juvenile's record shall be destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Office of Juvenile Justice.

**"§ 7B-3001. Other records relating to juveniles.**

(a) The chief court counselor shall maintain a record of all cases of juveniles under supervision of court counselors, to be known as the court counselor's record. The court counselor's record shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; or other information the court finds should be protected from public inspection in the best interests of the juvenile.

(b) Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court:

- (1) The juvenile;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The district attorney or prosecutor;
- (4) Court counselors; and
- (5) Law enforcement officers sworn in this State.

Otherwise, the records and files may be examined or copied only by order of the court.

(c) All records and files maintained by the Office pursuant to this Chapter shall be withheld from public inspection. The following persons may examine and obtain copies of the Office records and files concerning a juvenile without an order of the court:

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) Court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Office.

"ARTICLE 31.

"Disclosure of Juvenile Information.

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

(a) The Office, after consultation with the Conference of Chief District Court Judges, shall adopt rules designating certain local agencies that are authorized to share

information concerning juveniles in accordance with the provisions of this section. Agencies so designated shall share with one another, upon request, information that is in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that may be designated as 'agencies authorized to share information' include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Office of Juvenile Justice, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any information shared among agencies pursuant to this section shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act as set forth in 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(b) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents.

**"§ 7B-3101. Notification of schools when juveniles are alleged or found to be delinquent.**

(a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

- (1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an offense that would be a felony if committed by an adult;
- (2) The court transfers jurisdiction over a juvenile to superior court under G.S. 7B-2200;
- (3) The court dismisses under G.S. 7B-2411 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;
- (4) The court issues a dispositional order under Article 25 of Chapter 7B of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult; or
- (5) The court modifies or vacates any order or disposition under G.S. 7B-2600 concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery shall be made as soon as practicable but

at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified or vacated order, or a transfer to superior court shall describe the court's action and any applicable disposition requirements. As used in this subsection, the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

(b) If the principal of the school the juvenile attends returns any notification as required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is transferring to another school, the juvenile court counselor shall deliver the notification to the principal of the school to which the juvenile is transferring. Delivery shall be made as soon as practicable and shall be made in person or by certified mail.

(c) Principals shall handle any notification delivered under this section in accordance with G.S. 115C-404.

(d) For the purpose of this section, 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes.

"ARTICLE 32.

"Expunction of Juvenile Records.

**"§ 7B-3200. Expunction of records of juveniles alleged or adjudicated delinquent and undisciplined.**

(a) Any person who has attained the age of 18 years may file a petition in the court where the person was adjudicated undisciplined for expunction of all records of that adjudication.

(b) Any person who has attained the age of 18 years may file a petition in the court where the person was adjudicated delinquent for expunction of all records of that adjudication provided:

- (1) The offense for which the person was adjudicated would have been a crime other than a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (2) At least 18 months have elapsed since the person was released from juvenile court jurisdiction, and the person has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

Records relating to an adjudication for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult shall not be expunged.

(c) The petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that the petitioner has been of good behavior since the adjudication and, in the case of a petition based on a delinquency adjudication, that the petitioner has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States, or the laws of this State or any other state;
- (2) Verified affidavits of two persons, who are not related to the petitioner or to each other by blood or marriage, that they know the character and

- reputation of the petitioner in the community in which the petitioner lives and that the petitioner's character and reputation are good; and
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was adjudicated delinquent or undisciplined.

The petition shall be served upon the district attorney in the district wherein adjudication occurred. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing on the petition.

(d) If the court, after hearing, finds that the petitioner satisfies the conditions set out in subsections (a) or (b) of this section, the court shall order and direct the clerk and all law enforcement agencies to expunge their records of the adjudication including all references to arrests, complaints, referrals, petitions, and orders.

(e) The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other law enforcement agency.

(f) Records of a juvenile adjudicated delinquent or undisciplined being maintained by the chief court counselor, an intake counselor, or a court counselor shall be retained or disposed of as provided by the Office, except that no records shall be destroyed before the juvenile reaches the age of 18 or 18 months have elapsed since the person was released from juvenile court jurisdiction, whichever occurs last.

(g) Records of a juvenile adjudicated delinquent or undisciplined being maintained by personnel at a residential facility operated by the Office, shall be retained or disposed of as provided by the Office, except that no records shall be destroyed before the juvenile reaches the age of 18 or 18 months have elapsed since the person was released from juvenile court jurisdiction, whichever occurs last.

(h) Any person who was alleged to be delinquent as a juvenile and has attained the age of 16 years, or was alleged to be undisciplined as a juvenile and has attained the age of 18 years, may file a petition in the court in which the person was alleged to be delinquent or undisciplined, for expunction of all juvenile records of the juvenile having been alleged to be delinquent or undisciplined if the court dismissed the juvenile petition without an adjudication that the juvenile was delinquent or undisciplined. The petition shall be served on the chief court counselor in the district where the juvenile petition was filed. The chief court counselor shall have 10 days thereafter in which to file a written objection in the court. If no objection is filed, the court may grant the petition without a hearing. If an objection is filed or the court so directs, a hearing shall be scheduled and the chief court counselor shall be notified as to the date of the hearing. If the court finds at the hearing that the petitioner satisfies the conditions specified herein, the court shall order the clerk and the appropriate law enforcement agencies to expunge their records of the allegations of delinquent or undisciplined acts including all references to arrests, complaints, referrals, juvenile petitions, and orders. The clerk shall forward a certified copy of the order of expunction to the sheriff, chief of police, or other appropriate law enforcement agency, and to the chief court counselor, and these specified officials shall immediately destroy all records relating to the allegations that the juvenile was delinquent or undisciplined.

(i) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in the clerk's county, file with the Administrative Office of the Courts, the names of those persons granted an expunction under the provisions of this section, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons granted an expunction. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense has been previously granted an expunction.

**"§ 7B-3201. Effect of expunction.**

(a) Whenever a juvenile's record is expunged, with respect to the matter in which the record was expunged, the juvenile who is the subject of the record and the juvenile's parent may not be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such record or response to any inquiry made of the person for any purpose.

(b) Notwithstanding subsection (a) of this section, in any delinquency case if the juvenile is the defendant and chooses to testify or if the juvenile is not the defendant and is called as a witness, the juvenile may be ordered to testify with respect to whether the juvenile was adjudicated delinquent.

**"§ 7B-3202. Notice of expunction.**

Upon expunction of a juvenile's record, the clerk shall send a written notice to the juvenile at the juvenile's last known address informing the juvenile that the record has been expunged and with respect to the matter involved, the juvenile may not be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of the juvenile's failure to recite or acknowledge such record or response to any inquiry made of the juvenile for any purpose except that upon testifying in a delinquency proceeding, the juvenile may be required by a court to disclose that the juvenile was adjudicated delinquent.

**"ARTICLE 33.**

**"Computation of Recidivism Rates.**

**"§ 7B-3300. Juvenile recidivism rates.**

(a) On an annual basis, the Office of Juvenile Justice shall compute the recidivism rate of juveniles who are adjudicated delinquent for offenses that would be Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative Commission on Governmental Operations by February 15 each year.

(b) The chief court counselor of each judicial district shall forward to the Office relevant information, as determined by the Office, regarding every juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult for the purpose of computing the statistics required by this section.

**"SUBCHAPTER IV. PARENTAL AUTHORITY; EMANCIPATION.**

**"ARTICLE 34.**

**"Parental Authority Over Juveniles.**

**"§ 7B-3400. Juvenile under 18 subject to parents' control.**

Notwithstanding any other provision of law, any juvenile under 18 years of age, except as provided in G.S. 7B-3402 and G.S. 7B-3403, shall be subject to the supervision and control of the juvenile's parents.

**"§ 7B-3401. Definitions.**

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter.

**"§ 7B-3402. Exceptions.**

This Article shall not apply to any juvenile under the age of 18 who is married or who is serving in the armed forces of the United States, or who has been emancipated.

**"§ 7B-3403. No criminal liability created.**

This Article shall not be interpreted to place any criminal liability on a parent, guardian, or custodian for any act of the juvenile 16 years of age or older.

**"§ 7B-3404. Enforcement.**

The provisions of this Article may be enforced by the parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court to the juvenile by filing a civil action in the district court of the county where the juvenile can be found or the county of the plaintiff's residence. Upon the institution of such action by a verified complaint, alleging that the defendant juvenile has left home or has left the place where the juvenile has been residing and refuses to return and comply with the direction and control of the plaintiff, the court may issue an order directing the juvenile personally to appear before the court at a specified time to be heard in answer to the allegations of the plaintiff and to comply with further orders of the court. Such orders shall be served by the sheriff upon the juvenile and upon any other person named as a party defendant in such action. At the time of the issuance of the order directing the juvenile to appear, the court may in the same order, or by separate order, order the sheriff to enter any house, building, structure, or conveyance for the purpose of searching for the juvenile and serving the order and for the purpose of taking custody of the person of the juvenile in order to bring the juvenile before the court. Any order issued at said hearing shall be treated as a mandatory injunction and shall remain in full force and effect until the juvenile reaches the age of 18, or until further orders of the court. Within 30 days after the hearing on the original order, the juvenile, or anyone acting in the juvenile's behalf, may file a verified answer to the complaint. Upon the filing of an answer by or on behalf of the juvenile, any district court judge holding court in the county or district court district as defined in G.S. 7A-133 where the action was instituted shall have jurisdiction to hear the matter, without a jury, and to make findings of fact, conclusions of law, and render judgment thereon. Appeals from the district court to the Court of Appeals shall be allowed as in civil actions generally. The district court issuing the original order or the district court hearing the matter after answer has been filed shall also have authority to order that any person named defendant in the order or judgment shall not harbor, keep, or allow the defendant juvenile to remain on the person's premises or in the person's home. Failure of any defendant to comply with the terms of said order or judgment shall be punishable as for contempt.

"ARTICLE 35.



"Emancipation.

**"§ 7B-3500. Who may petition.**

Any juvenile who is 16 years of age or older and who has resided in the same county in North Carolina or on federal territory within the boundaries of North Carolina for six months next preceding the filing of the petition may petition the court in that county for a judicial decree of emancipation.

**"§ 7B-3501. Petition.**

The petition shall be signed and verified by the petitioner and shall contain the following information:

- (1) The full name of the petitioner and the petitioner's birth date, and state and county of birth;
- (2) A certified copy of the petitioner's birth certificate;
- (3) The name and last known address of the parent, guardian, or custodian;
- (4) The petitioner's address and length of residence at that address;
- (5) The petitioner's reasons for requesting emancipation; and
- (6) The petitioner's plan for meeting the petitioner's needs and living expenses which plan may include a statement of employment and wages earned that is verified by the petitioner's employer.

**"§ 7B-3502. Summons.**

A copy of the filed petition along with a summons shall be served upon the petitioner's parent, guardian, or custodian who shall be named as respondents. The summons shall include the time and place of the hearing and shall notify the respondents to file written answer within 30 days after service of the summons and petition. In the event that personal service cannot be obtained, service shall be in accordance with G.S. 1A-1, Rule 4(j).

**"§ 7B-3503. Hearing.**

The court, sitting without a jury, shall permit all parties to present evidence and to cross-examine witnesses. The petitioner has the burden of showing by a preponderance of the evidence that emancipation is in the petitioner's best interests. Upon finding that reasonable cause exists, the court may order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's mental or physical condition. The court may continue the hearing and order investigation by a court counselor or by the county department of social services to substantiate allegations of the petitioner or respondents.

No husband-wife or physician-patient privilege shall be grounds for excluding any evidence in the hearing.

**"§ 7B-3504. Considerations for emancipation.**

In determining the best interests of the petitioner and the need for emancipation, the court shall review the following considerations:

- (1) The parental need for the earnings of the petitioner;
- (2) The petitioner's ability to function as an adult;
- (3) The petitioner's need to contract as an adult or to marry;
- (4) The employment status of the petitioner and the stability of the petitioner's living arrangements;

- (5) The extent of family discord which may threaten reconciliation of the petitioner with the petitioner's family;
- (6) The petitioner's rejection of parental supervision or support; and
- (7) The quality of parental supervision or support.

**"§ 7B-3505. Final decree of emancipation.**

After reviewing the considerations for emancipation, the court may enter a decree of emancipation if the court determines:

- (1) That all parties are properly before the court or were duly served and failed to appear and that time for filing an answer has expired;
- (2) That the petitioner has shown a proper and lawful plan for adequately providing for the petitioner's needs and living expenses;
- (3) That the petitioner is knowingly seeking emancipation and fully understands the ramifications of the act; and
- (4) That emancipation is in the best interests of the petitioner.

The decree shall set out the court's findings.

If the court determines that the criteria in subdivisions (1) through (4) are not met, the court shall order the proceeding dismissed.

**"§ 7B-3506. Costs of court.**

The court may tax the costs of the proceeding to any party or may, for good cause, order the costs remitted.

The clerk may collect costs for furnishing to the petitioner a certificate of emancipation which shall recite the name of the petitioner and the fact of the petitioner's emancipation by court decree and shall have the seal of the clerk affixed thereon.

**"§ 7B-3507. Legal effect of final decree.**

As of entry of the final decree of emancipation:

- (1) The petitioner has the same right to make contracts and conveyances, to sue and to be sued, and to transact business as if the petitioner were an adult.
- (2) The parent, guardian, or custodian is relieved of all legal duties and obligations owed to the petitioner and is divested of all rights with respect to the petitioner.
- (3) The decree is irrevocable.

Notwithstanding any other provision of this section, a decree of emancipation shall not alter the application of G.S. 14-326.1 or the petitioner's right to inherit property by intestate succession.

**"§ 7B-3508. Appeals.**

Any petitioner, parent, guardian, or custodian who is a party to a proceeding under this Article may appeal from any order of disposition to the Court of Appeals provided that notice of appeal is given in open court at the time of the hearing or in writing within 10 days after the hearing. Pending disposition of an appeal, the court may enter a temporary order affecting the custody or placement of the petitioner as the court finds to be in the best interests of the petitioner or the State.

**"§ 7B-3509. Application of common law.**

A married juvenile is emancipated by this Article. All other common-law provisions for emancipation are superseded by this Article.

"ARTICLE 36.

"Judicial Consent for Emergency Surgical or Medical Treatment.

**"§ 7B-3600. Judicial authorization of emergency treatment; procedure.**

A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the General Statutes, whose physician is barred from rendering necessary treatment by reason of parental refusal to consent to treatment, may receive treatment with court authorization under the following procedure:

- (1) The physician shall sign a written statement setting out:
  - a. The treatment to be rendered and the emergency need for treatment;
  - b. The refusal of the parent, guardian, custodian, or person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court to consent to the treatment; and
  - c. The impossibility of contacting a second physician for a concurring opinion on the need for treatment in time to prevent immediate harm to the juvenile.
- (2) Upon examining the physician's written statement prescribed in subdivision (1) of this section and finding:
  - a. That the statement is in accordance with this Article, and
  - b. That the proposed treatment is necessary to prevent immediate harm to the juvenile.

The court may issue a written authorization for the proposed treatment to be rendered.
- (3) In acute emergencies in which time may not permit implementation of the written procedure set out in subdivisions (1) and (2) of this section, the court may authorize treatment in person or by telephone upon receiving the oral statement of a physician satisfying the requirements of subdivision (1) of this section and upon finding that the proposed treatment is necessary to prevent immediate harm to the juvenile.
- (4) The court's authorization for treatment overriding parental refusal to consent should not be given without attempting to offer the parent an opportunity to state the reasons for refusal; however, failure of the court to hear the parent's objections shall not invalidate judicial authorization under this Article.
- (5) The court's authorization for treatment under subdivisions (1) and (2) of this section shall be issued in duplicate. One copy shall be given to the treating physician and the other copy shall be attached to the physician's written statement and filed as a juvenile proceeding in the office of the clerk of court.
- (6) The court's authorization for treatment under subdivision (3) of this section shall be reduced to writing as soon as possible, supported by

the physician's written statement as prescribed in subdivision (1) of this section and shall be filed as prescribed in subdivision (5) of this section.

The court's authorization for treatment under this Article shall have the same effect as parental consent for treatment.

Following the court's authorization for treatment and after giving notice to the juvenile's parent, guardian, or custodian the court shall conduct a hearing in order to provide for payment for the treatment rendered. The court may order the parent or other responsible parties to pay the cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the cost shall be a charge upon the county when so ordered.

This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903, 7B-2503, and 7B-2506.

"SUBCHAPTER V. PLACEMENT OF JUVENILES.

"ARTICLE 37.

"Placing or Adoption of Juvenile Delinquents or Dependents.

**"§ 7B-3700. Consent required for bringing child into State for placement or adoption.**

(a) No person, agency, association, institution, or corporation shall bring or send into the State any child for the purpose of giving custody of the child to some person in the State or procuring adoption by some person in the State without first obtaining the written consent of the Department of Health and Human Services.

(b) The person with whom a child is placed for either of the purposes set out in subsection (a) of this section shall be responsible for the child's proper care and training. The Department of Health and Human Services or its agents shall have the same right of visitation and supervision of the child and the home in which it is placed as in the case of a child placed by the Department or its agents as long as the child shall remain within the State and until the child shall have reached the age of 18 years or shall have been legally adopted.

**"§ 7B-3701. Bond required.**

The Social Services Commission may, in its discretion, require of a person, agency, association, institution, or corporation which brings or sends a child into the State with the written consent of the Department of Health and Human Services, as provided by G.S. 7B-3700, a continuing bond in a penal sum not in excess of one thousand dollars (\$1,000) with such conditions as may be prescribed and such sureties as may be approved by the Department of Health and Human Services. Said bond shall be made in favor of and filed with the Department of Health and Human Services with the premium prepaid by the said person, agency, association, institution, or corporation desiring to place such child in the State.

**"§ 7B-3702. Consent required for removing child from State.**

No child shall be taken or sent out of the State for the purpose of placing the child in a foster home or in a child-caring institution without first obtaining the written consent of the Department of Health and Human Services. The foster home or child-caring institution in which the child is placed shall report to the Department of Health and Human Services at such times as the Department of Health and Human Services may

direct as to the location and well-being of such child until the child shall have reached the age of 18 years or shall have been legally adopted.

**"§ 7B-3703. Violation of Article a misdemeanor.**

Every person acting for himself or for an agency who violates any of the provisions of this Article or who shall intentionally make any false statements to the Social Services Commission or the Secretary or an employee thereof acting for the Department of Health and Human Services in an official capacity in the placing or adoption of juvenile delinquents or dependents shall, upon conviction thereof, be guilty of a Class 2 misdemeanor.

**"§ 7B-3704. Definitions.**

The term 'Department' wherever used in this Article shall be construed to mean the Department of Health and Human Services. The term 'Secretary' wherever used in this Article shall be construed to mean the Secretary of the Department of Health and Human Services.

**"§ 7B-3705. Application of Article.**

None of the provisions of this Article shall apply when a child is brought into or sent into, or taken out of, or sent out of the State, by the guardian of the person of such child, or by a parent, stepparent, grandparent, uncle or aunt of such child, or by a brother, sister, half brother, or half sister of such child, if such brother, sister, half brother, or half sister is 18 years of age or older.

**"ARTICLE 38.**

**"Interstate Compact on the Placement of Children.**

**"§ 7B-3800. Adoption of Compact.**

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in a form substantially as contained in this Article. It is the intent of the General Assembly that Article 4 of this Chapter shall govern interstate placements of children between North Carolina and any other jurisdictions not a party to this Compact. It is the intent of the General Assembly that Chapter 48 of the General Statutes shall govern the adoption of children within the boundaries of North Carolina.

**Article I. Purpose and Policy.**

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

## Article II. Definitions.

As used in this Compact:

(a) 'Child' means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) 'Sending agency' means a party state officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) 'Receiving state' means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities of [or] for placement with private agencies or persons.

(d) 'Placement' means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

(e) 'Appropriate public authorities' as used in Article III shall, with reference to this State, mean the Department of Health and Human Services and said agency shall receive and act with reference to notices required by Article III.

(f) 'Appropriate authority in the receiving state' as used in paragraph (a) of Article V shall, with reference to this State, mean the Secretary.

(g) 'Executive head' as used in Article VII means the Governor.

## Article III. Conditions for Placement.

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this Article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date, and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this Article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be

entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this Compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

#### Article IV. Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this Compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

#### Article V. Retention of Jurisdiction.

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this Compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

#### Article VI. Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this Compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to the child's being sent to such other party jurisdiction for institutional care and the court finds that:

- (1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
- (2) Institutional care in the other jurisdiction is in the best interests of the child and will not produce undue hardship.

#### Article VII. Compact Administrator.

The executive head of each jurisdiction party to this Compact shall designate an officer who shall be general coordinator of activities under this Compact in the officer's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this Compact.

#### Article VIII. Limitations.

This Compact shall not apply to: (a) the sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in the receiving state. (b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

#### Article IX. Enactment and Withdrawal.

This Compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this Compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this Compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

#### Article X. Construction and Severability.

The provisions of this Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

#### **§ 7B-3801. Financial responsibility under Compact.**

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with



the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of any other state laws fixing responsibility for the support of children also may be invoked.

**"§ 7B-3802. Agreements under Compact.**

The officers and agencies of this State and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this State or subdivision or agency thereof shall not be binding unless it has the approval in writing of the Secretary of the Department of Health and Human Services in the case of the State and of the county director of social services in the case of a county or other subdivision of the State.

**"§ 7B-3803. Visitation, inspection or supervision.**

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under the laws of this State shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this State or a subdivision thereof as contemplated by paragraph (b) of Article V of the Interstate Compact on the Placement of Children.

**"§ 7B-3804. Compact to govern between party states.**

The provisions of Article 37 of this Chapter shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

**"§ 7B-3805. Placement of delinquents.**

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof.

**"§ 7B-3806. Compact Administrator.**

The Governor is hereby authorized to appoint a Compact Administrator in accordance with the terms of said Article VII."

**PART IV. EMPLOYMENT DISCRIMINATION**

Section 7. G.S. 95-241(a) reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following: to:

- (1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
  - a. Chapter 97 of the General Statutes.
  - b. Article 2A or Article 16 of this Chapter.
  - c. Article 2A of Chapter 74 of the General Statutes.
  - d. G.S. 95-28.1.
  - e. Article 16 of Chapter 127A of the General Statutes.
  - f. G.S. 95-28.1A.

- (2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.
- (3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes.
- (4) Comply with the provisions of Article 27 of Chapter 7B of the General Statutes."

## **PART V. EDUCATIONAL USE OF JUVENILE COURT INFORMATION**

Section 8. G.S. 115C-404 reads as rewritten:

### **"§ 115C-404. Use of juvenile court information.**

(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. ~~The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the~~ The principal shall shred, burn, or otherwise destroy the documents received in accordance with G.S. 7B-3100 to protect the confidentiality of this information. the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents.

(b) Documents received under this section ~~may~~ shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee, in accordance with G.S. 115C-325(e)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal

shall return ~~the~~ all documents not destroyed in accordance with subsection (a) of this section to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring."

## **PART VI. CRIMINAL JUSTICE INFORMATION NETWORK CONFORMING CHANGES**

Section 9. G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the Department of Justice, State Bureau of Investigation, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of Justice, State Bureau of Investigation, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of Justice."

## **PART VII. SENTENCING COMMISSION DIRECTIVES**

Section 10. (a) G.S. 164-36 reads as rewritten:

### **"§ 164-36. Powers and duties.**

(a) Sentences established for violations of the State's criminal laws should be based on the established purposes of our criminal justice and corrections systems. The Commission shall evaluate sentencing laws and policies in relationship to both the stated purposes of the criminal justice and corrections systems and the availability of sentencing options. The Commission shall make recommendations to the General Assembly for the modification of sentencing laws and policies, and for the addition, deletion, or expansion of sentencing options as necessary to achieve policy goals. The Commission shall make a report of its recommendations, including any recommended legislation, to the General Assembly annually.

(b) Dispositions established for violations by juveniles of the State's criminal laws should be based on the established purposes set forth in Chapter 7B of the General Statutes. The Commission shall evaluate dispositional laws and policies in relationship to both the stated purposes of Chapter 7B of the General Statutes and the availability of dispositional alternatives. The Commission shall make recommendations to the General Assembly for the modification of dispositional laws and policies, and for the addition, deletion, or expansion of dispositional alternatives as necessary to achieve policy goals. The Commission shall make a report of its recommendations, including any recommended legislation, to the General Assembly annually."

(b) G.S. 164-40 reads as rewritten:

### **"§ 164-40. Correction population simulation model; Office of Juvenile Justice facilities population simulation model.**

(a) The Commission shall develop a correctional population simulation model, and shall have first priority to apply the model to a given fact situation, or theoretical change in the sentencing laws, when requested to do so by the Chairman, the Executive Director, or the Commission as a whole.

The Executive Director or the Chairman shall make the model available to respond to inquiries by any State legislator, or by the Secretary of the Department of Correction, in second priority to the work of the Commission.

(b) The Commission shall develop an Office of Juvenile Justice facilities population simulation model, and shall have first priority to apply the model to a given fact situation, or theoretical change in the dispositional laws set forth in Chapter 7B of the General Statutes, when requested to do so by the Chairman, the Executive Director, or the Commission as a whole.

The Executive Director or the Chairman shall make the model available to respond to inquiries by any State legislator, or by the Office of Juvenile Justice, in second priority to the work of the Commission."

(c) G.S. 164-42.1 reads as rewritten:

**"§ 164-42.1. Policy recommendations.**

(a) Using the studies of the Special Committee on Prisons, the Governor's Crime Commission, and other analyses, including testimony from representatives of the bodies that conducted the analyses, the Commission shall:

- (1) Determine the long-range needs of the criminal justice and corrections systems and recommend policy priorities for those systems;
- (2) Determine the long-range information needs of the criminal justice and corrections systems and acquire that information as it becomes available;
- (3) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve those problems;
- (4) Assess the cost-effectiveness of the use of State and local funds in the criminal justice and corrections systems;
- (5) Recommend the goals, priorities, and standards for the allocation of criminal justice and corrections funds;
- (6) Recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice and corrections systems;
- (7) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems;
- (8) Determine the sentencing structures for parole decisions;
- (9) Examine the impact of mandatory sentence lengths as opposed to the deterrent effect of minimum mandatory terms of imprisonment;
- (10) Examine good time and gain time practices;
- (11) Study the value of presentence reports;
- (12) Consider the rehabilitative potential of the offender and the appropriate rehabilitative placement;
- (13) Examine the impact of imprisonment on families of offenders;

- (14) Examine the impact of imprisonment on the ability of the offender to make restitution; ~~and~~
- (15) Study the need for an amendment to Article XI, Section 1 of the State Constitution to include restitution, restraints on liberty, work programs, or other punishments to the list of punishments allowed under that section; and
- (16) Study the costs and consequences of criminal behavior in North Carolina and consider the value of preventing crimes by using incarceration to deter both prospective criminals and convicted criminals from future crimes.

(b) Using the studies and analyses available, including testimony from representatives of the bodies that conducted the analyses, the Commission shall:

- (1) Determine the long-range needs of the juvenile justice system and recommend policy priorities for that system;
  - (2) Determine the long-range information needs of the juvenile justice system and acquire that information as it becomes available;
  - (3) Identify critical problems in the juvenile justice system and recommend strategies to solve those problems;
  - (4) Assess the cost-effectiveness of the use of State and local funds in the juvenile justice system; and
  - (5) Recommend the goals, priorities, and standards for the allocation of juvenile justice funds."
- (d) G.S. 164-43 reads as rewritten:

**"§ 164-43. Priority of duties; reports; continuing duties.**

(a) The Commission shall have two primary duties, and other secondary duties essential to accomplishing the primary ones. The Commission may establish subcommittees or advisory committees composed of Commission members to accomplish duties imposed by this Article.

It is the legislative intent that the Commission attach priority to accomplish the following primary duties:

- (1) The classification of criminal offenses as described in G.S. 164-41 and the formulation of sentencing structures as described in G.S. 164-42; and
- (2) The formulation of proposals and recommendations as described in G.S. 164-42.1 and G.S. 164-42.2.

(b) The Commission shall report its findings and recommendations to the 1991 General Assembly, 1991 Regular Session. The report shall describe the status of the Commission's work, and shall include any completed policy recommendations.

(c) The Commission shall report on its progress in formulating recommendations for the classification and ranges of punishment for felonies and misdemeanors, required by G.S. 164-41, and sentencing structures, established pursuant to G.S. 164-42, to the 1991 General Assembly, 1992 Regular Session, and shall make a final report on these recommendations no later than 30 days after the convening of the 1993 Session of the General Assembly.

(d) Once the primary duties of the Commission have been accomplished, it shall have the continuing duty to monitor and review the criminal justice and corrections systems and the juvenile justice system in this State to ensure that ~~sentencing remains sentences and dispositions remain~~ uniform and consistent, and that the goals and policies established by the State are being implemented by sentencing and dispositional practices, and it shall recommend methods by which this ongoing work may be accomplished and by which the correctional population simulation model and the Office of Juvenile Justice facilities population simulation model developed pursuant to G.S. 164-40 shall continue to be used by the State.

(e) Upon adoption of a system for the classification of offenses formulated pursuant to G.S. 164-41, the Commission or its successor shall review all proposed legislation which creates a new criminal offense, changes the classification of an offense, or changes the range of punishment or dispositional level for a particular classification, and shall make recommendations to the General Assembly.

(f) In the case of a new criminal offense, the Commission or its successor shall determine whether the proposal places the offense in the correct classification, based upon the considerations and principles set out in G.S. 164-41. If the proposal does not assign the offense to a classification, it shall be the duty of the Commission or its successor to recommend the proper classification placement.

(g) In the case of proposed changes in the classification of an offense or changes in the range of punishment or dispositional level for a classification, the Commission or its successor shall determine whether such a proposed change is consistent with the considerations and principles set out in G.S. 164-41, and shall report its findings to the General Assembly.

(h) The Commission or its successor shall meet within 10 days after the last day for filing general bills in the General Assembly for the purpose of reviewing bills as described in subsections (e), (f), and (g). The Commission or its successor shall include in its report on a bill an analysis based on an application of the correctional population simulation model or the Office of Juvenile Justice facilities population simulation model to the provisions of the bill."

(e) G.S. 164-44 reads as rewritten:

**"§ 164-44. Statistical information; financial or other aid.**

(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to ~~sentencing and corrections~~ sentencing, corrections, and juvenile justice so that the primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly.

(b) The Commission shall have the authority to apply for, accept, and use any gifts, grants, or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the State or from any other source including private associations, foundations, or corporations to accomplish any of the duties set out in this Chapter."

(f) G.S. 164-37 reads as rewritten:

**"§ 164-37. Membership; chairman; meetings; quorum.**

The Commission shall consist of ~~29~~30 members as follows:

- (1) The Chief Justice of the North Carolina Supreme Court shall appoint a sitting or former Justice or judge of the General Court of Justice, who shall serve as Chairman of the Commission;
- (2) The Chief Judge of the North Carolina Court of Appeals, or another judge on the Court of Appeals, serving as his designee;
- (3) The Secretary of Correction or his designee;
- (4) The Secretary of Crime Control and Public Safety or his designee;
- (5) The Chairman of the Parole Commission, or his designee;
- (6) The President of the Conference of Superior Court Judges or his designee;
- (7) The President of the District Court Judges Association or his designee;
- (8) The President of the North Carolina Sheriff's Association or his designee;
- (9) The President of the North Carolina Association of Chiefs of Police or his designee;
- (10) One member of the public at large, who is not currently licensed to practice law in North Carolina, to be appointed by the Governor;
- (11) One member to be appointed by the Lieutenant Governor;
- (12) Three members of the House of Representatives, to be appointed by the Speaker of the House;
- (13) Three members of the Senate, to be appointed by the President Pro Tempore of the Senate;
- (14) The President Pro Tempore of the Senate shall appoint the representative of the North Carolina Community Sentencing Association that is recommended by the President of that organization;
- (15) The Speaker of the House of Representatives shall appoint the member of the business community that is recommended by the President of the North Carolina Retail Merchants Association;
- (16) The Chief Justice of the North Carolina Supreme Court shall appoint the criminal defense attorney that is recommended by the President of the North Carolina Academy of Trial Lawyers;
- (17) The President of the Conference of District Attorneys or his designee;
- (18) The Lieutenant Governor shall appoint the member of the North Carolina Victim Assistance Network that is recommended by the President of that organization;
- (19) A rehabilitated former prison inmate, to be appointed by the Chairman of the Commission;
- (20) The President of the North Carolina Association of County Commissioners or his designee;

- (21) The Governor shall appoint the member of the academic community, with a background in criminal justice or corrections policy, that is recommended by the President of The University of North Carolina;
- (22) The Attorney General, or a member of his staff, to be appointed by the Attorney General;
- (23) The Governor shall appoint the member of the North Carolina Bar Association that is recommended by the President of that organization.
- (24) A member of the Justice Fellowship Task Force, who is a resident of North Carolina, to be appointed by the Chairman of the Commission.
- (25) The President of the Association of Clerks of Superior Court of North Carolina, or his designee.
- (26) A representative of the Office of Juvenile Justice.

The Commission shall have its initial meeting no later than September 1, 1990, at the call of the Chairman. The Commission shall meet a minimum of four regular meetings each year. The Commission may also hold special meetings at the call of the Chairman, or by any four members of the Commission, upon such notice and in such manner as may be fixed by the rules of the Commission. A majority of the members of the Commission shall constitute a quorum."

#### **PART VIII. REGISTRATION OF CERTAIN JUVENILES**

Section 11. Effective October 1, 1999, Article 25 of Chapter 7B of the General Statutes is amended by adding a new section to read:

##### **"§ 7B-2508.1. Registration of certain delinquent juveniles.**

In any case in which a juvenile, who was at least 11 years of age at the time of the offense, is adjudicated delinquent for committing a violation of G.S. 14-27.2 (first-degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first-degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), the judge, upon a finding that the juvenile is a danger to the community, may order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of the General Statutes."

#### **PART IX. ALTERNATIVE LEARNING PROGRAMS ENCOURAGED**

Section 12. G.S. 115C-47 is amended by adding the following new subdivision to read:

- "(32a) To Develop Guidelines for Alternative Learning Programs. – Local boards of education are encouraged to establish alternative learning programs. If these programs are established, local boards of education shall adopt guidelines for assigning students to them. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long-term suspension or expulsion. In developing these guidelines, local boards are encouraged to consider the State Board's guidelines



developed under G.S. 115C-12(24). Upon adoption of guidelines under this subdivision, local boards are encouraged to incorporate them in their safe school plans developed under G.S. 115C-105.47."

## **PART X. CONFORMING STATUTORY CHANGES**

Section 13. (a) G.S. 7A-451(a)(14) reads as rewritten:

"(14) A proceeding to terminate parental rights where a guardian ad litem is appointed pursuant to ~~G.S. 7A-289.23~~; G.S. 7B-1101;"

(b) G.S. 8-53.1 reads as rewritten:

### **"§ 8-53.1. Physician-patient privilege waived in child abuse.**

Notwithstanding the provisions of G.S. 8-53, the physician-patient privilege shall not be ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, ~~Subchapter XI of Chapter 7A-7B~~ of the General Statutes of North Carolina."

(c) G.S. 8-53.3 reads as rewritten:

### **"§ 8-53.3. Communications between psychologist and client or patient.**

No person, duly authorized as a licensed psychologist or licensed psychological associate, nor any of his or her employees or associates, shall be required to disclose any information which he or she may have acquired in the practice of psychology and which information was necessary to enable him or her to practice psychology. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge.

Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for failure to report suspected child abuse or neglect to the appropriate county department of social services, or for failure to report a disabled adult suspected to be in need of protective services to the appropriate county department of social services. Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for excluding evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding related to a report pursuant to the Child Abuse Reporting Law, ~~Article 44 of Chapter 7A~~, Article 3 of Chapter 7B of the General Statutes, or to the Protection of the Abused, Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General Statutes."

(d) G.S. 8-57.1 reads as rewritten:

### **"§ 8-57.1. Husband-wife privilege waived in child abuse.**

Notwithstanding the provisions of G.S. 8-56 and G.S. 8-57, the husband-wife privilege shall not be ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the Child Abuse

Reporting Law, ~~Article 8 of Chapter 110~~ Article 3 of Chapter 7B of the General Statutes of North Carolina."

(e) G.S. 14-208.6B reads as rewritten:

**"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.**

A juvenile transferred to superior court pursuant to ~~G.S. 7A-608~~ G.S. 7B-2200 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in accordance with this Article just as an adult convicted of the same offense must register."

(f) G.S. 15A-502(c) reads as rewritten:

"(c) This section does not authorize the taking of photographs or fingerprints of a juvenile alleged to be delinquent except under ~~G.S. 7A-596 through 7A-601 and 7A-603~~ Article 21 of Chapter 7B of the General Statutes."

(g) G.S. 35A-1371 reads as rewritten:

**"§ 35A-1371. Jurisdiction; limits.**

Notwithstanding the provisions of Subchapter II of this Chapter, the clerk of superior court shall have original jurisdiction for the appointment of a standby guardian for a minor child under this Article. Provided that the clerk shall have no jurisdiction, no standby guardian may be appointed under this Article, and no designation may become effective under this Article when a district court has assumed jurisdiction over the minor child in an action under Chapter 50 of the General Statutes or in an abuse, neglect, or dependency proceeding under ~~Subchapter XI of Chapter 7A~~ Subchapter I of Chapter 7B of the General Statutes, or when a court in another state has assumed such jurisdiction under a comparable statute."

(h) G.S. 48-1-109(c) reads as rewritten:

"(c) An order for a report to the court must be sent to a county department of social services in this State or an agency licensed by the Department. If the petitioner moves to a different state before the agency completes the report, the agency shall request a report from an agency authorized to prepare such reports in the petitioner's new state of residence pursuant to the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1, et seq.~~ Article 38 of Chapter 7B of the General Statutes."

(i) G.S. 48-2-102(b) reads as rewritten:

"(b) If an adoptee is also the subject of a pending proceeding under ~~Subchapter XI of Chapter 7A~~ Chapter 7B of the General Statutes, then the district court having jurisdiction under ~~Chapter 7A~~ Chapter 7B shall retain jurisdiction until the final order of adoption is entered. The district court may waive jurisdiction for good cause."

(j) G.S. 48-3-201(d) reads as rewritten:

"(d) An agency having legal and physical custody of a minor may place the minor for adoption at any time after a relinquishment is executed by anyone as permitted by G.S. 48-3-701. The agency may place the minor for adoption even if other consents are required before an adoption can be granted, unless an individual whose consent is required notifies the agency in writing of the individual's objections before the placement. The agency shall act promptly after accepting a relinquishment to obtain all other necessary consents, relinquishments, or terminations of any guardian's authority

pursuant to Chapter 35A of the General Statutes or parental rights pursuant to ~~Article 24B of Chapter 7A~~ Article 11 of Chapter 7B of the General Statutes."

(k) G.S. 48-2-304(c) reads as rewritten:

"(c) A petition to adopt a minor under Article 3 of this Chapter shall also state:

- (1) A description of the source of placement and the date of placement of the adoptee with the petitioner; and
- (2) That the provisions of the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1, et seq.,~~ Article 38 of Chapter 7B of the General Statutes, were followed if the adoptee was brought into this State from another state for purposes of adoption."

(l) G.S. 48-2-603 reads as rewritten:

**"§ 48-2-603. Hearing on, or disposition of, petition to adopt a minor.**

(a) At the hearing on, or disposition of, a petition to adopt a minor, the court shall grant the petition upon finding by a preponderance of the evidence that the adoption will serve the best interest of the adoptee, and that:

- (1) At least 90 days have elapsed since the filing of the petition for adoption, unless the court for cause waives this requirement;
- (2) The adoptee has been in the physical custody of the petitioner for at least 90 days, unless the court for cause waives this requirement;
- (3) Notice of the filing of the petition has been served on any person entitled to receive notice under Part 4 of this Article;
- (4) Each necessary consent, relinquishment, waiver, or judicial order terminating parental rights, has been obtained and filed with the court and the time for revocation has expired;
- (5) Any assessment required by this Chapter has been filed with and considered by the court;
- (6) If applicable, the requirements of the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1, et seq.,~~ Article 38 of Chapter 7B of the General Statutes, have been met;
- (7) Any motion to dismiss the proceeding has been denied;
- (8) Each petitioner is a suitable adoptive parent;
- (9) Any accounting and affidavit required under G.S. 48-2-602 has been reviewed by the court, and the court has denied, modified, or ordered reimbursement of any payment or disbursement that violates Article 10 or is unreasonable when compared with the expenses customarily incurred in connection with an adoption;
- (10) The petitioner has received information about the adoptee and the adoptee's biological family if required by G.S. 48-3-205; and
- (11) There has been substantial compliance with the provisions of this Chapter.

(b) If the Court finds a violation of this Chapter pursuant to Article 10 or of the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1, et seq.,~~ Article 38 of Chapter 7B of the General Statutes, but determines that in every other respect there has

been substantial compliance with the provisions of this Chapter, and the adoption will serve the best interest of the adoptee, the court shall:

- (1) Grant the petition to adopt; and
  - (2) Impose the sanctions provided by this Chapter against any individual or entity who has committed a prohibited act or report the violations to the appropriate legal authorities.
- (c) The court on its own motion may continue the hearing for further evidence."
- (m) G.S. 48-2-305(7) reads as rewritten:
- "(7) Any signed copy of the form required by the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1, et seq.~~, Article 38 of Chapter 7B of the General Statutes, authorizing a minor to come into this State;"
- (n) G.S. 48-3-207 reads as rewritten:

**"§ 48-3-207. Interstate placements.**

An interstate placement of a minor for purposes of adoption shall comply with the Interstate Compact on the Placement of Children, ~~G.S. 110-57.1 et seq.~~ Article 38 of Chapter 7B of the General Statutes."

- (o) G.S. 48-3-603(a)(1) reads as rewritten:
- "(1) An individual whose parental rights and duties have been terminated under ~~Article 24B of Chapter 7A~~ Article 11 of Chapter 7B of the General Statutes or by a court of competent jurisdiction in another state;"
- (p) G.S. 50-13.1(f) reads as rewritten:
- "(f) Neither the mediator nor any party or other person involved in mediation sessions under this section shall be competent to testify to communications made during or in furtherance of such mediation sessions; provided, there is no privilege as to communications made in furtherance of a crime or fraud. Nothing in this subsection shall be construed as permitting an individual to obtain immunity from prosecution for criminal conduct or as excusing an individual from the reporting requirements of ~~G.S. 7A-543~~ Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102."

- (q) G.S. 50A-25 reads as rewritten:

**"§ 50A-25. Emergency orders.**

Nothing in this Chapter shall be interpreted to limit the authority of the court to issue an interlocutory order under the provisions of G.S. 50-13.5(d)(2); or a secure or nonsecure custody order under the provisions of ~~G.S. 7A-573~~ G.S. 7B-502."

- (r) G.S. 50B-6 reads as rewritten:

**"§ 50B-6. Construction of Chapter.**

This Chapter shall not be construed as granting a status to any person for any purpose other than those expressly stated herein. This Chapter shall not be construed as relieving any person or institution of the duty to report to the department of social services, as required by ~~G.S. 7A-543~~, G.S. 7B-301, if the person or institution has cause to suspect that a juvenile is abused or neglected."

- (s) G.S. 51-2(a) reads as rewritten:

"(a) All unmarried persons of 18 years, or older, may lawfully marry, except as hereinafter forbidden. In addition, persons over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for such marriage, only after there shall have been filed with the register of deeds a written consent to such marriage, said consent having been signed by the appropriate person as follows:

- (1) By the father if the male or female child applying to marry resides with his or her father, but not with his or her mother;
- (2) By the mother if the male or female child applying to marry resides with his or her mother, but not with his or her father;
- (3) By either the mother or father, without preference, if the male or female child applying to marry resides with his or her mother and father;
- (4) By a person, agency, or institution having legal custody, standing in loco parentis, or serving as guardian of such male or female child applying to marry.

Such written consent shall not be required for an emancipated minor if a certificate of emancipation issued pursuant to Article ~~56 of Chapter 7A~~ 35 of Chapter 7B of the General Statutes or a certified copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed with the register of deeds."

(t) G.S. 90-21.6(1) reads as rewritten:

"(1) 'Unemancipated minor' or 'minor' means any person under the age of 18 who has not been married or has not been emancipated pursuant to Article ~~56 of Chapter 7A~~ 35 of Chapter 7B of the General Statutes."

(u) G.S. 90-21.8(f) reads as rewritten:

"(f) The court shall make written findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence be maintained. If the court finds that the minor has been a victim of incest, whether felonious or misdemeanor, it shall advise the Director of the Department of Social Services of its findings for further action pursuant to Article ~~44 of Chapter 7A~~ 3 of Chapter 7B of the General Statutes."

(v) G.S. 108A-14(a)(11) reads as rewritten:

"(11) To investigate reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article ~~44 of Chapter 7A;~~ Article 3 of Chapter 7B of the General Statutes;".

(w) G.S. 110-102 reads as rewritten:

**"§ 110-102. Information for parents.**

The Secretary shall provide to each operator of a child care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving child care in the facility to be distributed by the operator. The summary shall include the name and address of the Secretary and the address of the Commission. The summary shall also include a statement regarding the mandatory duty prescribed in ~~G.S. 7A-543~~ G.S. 7B-301 of any person suspecting child abuse or neglect has taken place in child care, or elsewhere, to report to the county Department of Social Services. The statement

shall include the definitions of child abuse and neglect described in the Juvenile Code in ~~G.S. 7A-517~~ G.S. 7B-101 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal the person's identity."

(x) G.S. 110-105.2(a) reads as rewritten:

"(a) For purposes of this Article, child abuse and neglect, as defined in ~~G.S. 7A-517~~ G.S. 7B-101 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities, are violations of the licensure standards and of the licensure law."

(y) G.S. 110-147 reads as rewritten:

**"§ 110-147. Purpose.**

It is the expressed intent of this Article to make the prevention of child abuse and neglect as defined in ~~G.S. 7A-517~~, G.S. 7B-101, a priority of this State and to establish the Children's Trust Fund as a means to that end."

(z) G.S. 114-15.3 reads as rewritten:

**"§ 114-15.3. Investigations of child sexual abuse in child care.**

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant to ~~G.S. 7A-543~~, G.S. 7B-301, that child sexual abuse may have occurred in a child care facility."

(aa) G.S. 115C-378 reads as rewritten:

**"§ 115C-378. Children required to attend.**

Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or other person in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school. No person shall encourage, entice or counsel any such child to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school policy.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause which does not constitute unlawful absence as defined by the State Board of Education. The term 'school' as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned:

Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal or his designee shall notify the parent, guardian, or custodian of his child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal shall notify the parent, guardian, or custodian by mail that he may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law-enforcement officer accompany him if he believes that a home visit is necessary.

After 10 accumulated unexcused absences in a school year the principal shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and his parent, guardian, or custodian if possible to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal determines that parent, guardian, or custodian has not, he shall notify the district attorney. If he determines that parent, guardian, or custodian has, he may file a complaint with the juvenile intake counselor ~~under G.S. 7A-561~~ pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences."

(bb) G.S. 115C-400 reads as rewritten:

**"§ 115C-400. School personnel to report child abuse.**

Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in ~~G.S. 7A-543 to 7A-552.~~ Article 3 of Chapter 7B of the General Statutes."

(cc) G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ Article 31 of Chapter 7B of the General Statutes are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the ~~petition under G.S. 7A-637,~~ petition, the judge transferred jurisdiction over the student to superior ~~court under G.S. 7A-608,~~ court, or the judge granted the student's petition for expunction of the ~~records.~~ records pursuant to Chapter 7B of the General Statutes. At that time, the principal shall shred, burn, or

otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

(dd) G.S. 122C-54(h) reads as rewritten:

"(h) A facility shall disclose confidential information for purposes of complying with Article ~~44 of Chapter 7A-3 of Chapter 7B~~ of the General Statutes and Article 6 of Chapter 108A of the General Statutes, or as required by other State or federal law."

(ee) G.S. 122C-66(e) reads as rewritten:

"(e) The duty imposed by this section is in addition to any duty imposed by G.S. ~~7A-543-7B-301~~ or G.S. 108A-102."

(ff) G.S. 122C-223(c) reads as rewritten:

"(c) If the legally responsible person cannot be located within 72 hours of admission, the responsible professional shall initiate proceedings for juvenile protective services as described in Article ~~44 of Chapter 7A-3 of Chapter 7B~~ of the General Statutes in either the minor's county of residence or in the county in which the facility is located."

(gg) G.S. 122C-421(a) reads as rewritten:

"(a) The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Black Mountain Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in Buncombe County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named centers. These special police officers shall also have the power prescribed by ~~G.S. 7A-571(a)(4)-G.S. 7B-1900~~ outside the territory embraced by the named centers but within the confines of Buncombe County. These special police officers may arrest persons outside the territory of the named centers but within the confines of Buncombe County when the person arrested has committed a criminal offense within that territory, for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory."

(hh) G.S. 131D-10.2(3) reads as rewritten:

"(3) 'Child' means an individual less than 18 years of age, who has not been emancipated under the provisions of ~~Article 56 of Chapter 7A~~ Article 35 of Chapter 7B of the General Statutes."

(ii) G.S. 131D-10.4(3) reads as rewritten:

"(3) Secure detention facilities as specified in ~~Article 5 of Chapter 134A-40~~ of Chapter 7B of the General Statutes;"

(jj) G.S. 132-1.4(l) reads as rewritten:

"(l) Records of investigations of alleged child abuse shall be governed by ~~G.S. 7A-675~~ Article 29 of Chapter 7B of the General Statutes."

(kk) G.S. 143-576(1) reads as rewritten:

"(1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused



or neglected juvenile pursuant to ~~G.S. 7A-543~~ G.S. 7B-301 at any time before death;"

(ll) G.S. 143B-168.14(a)(3) reads as rewritten:

"(3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in ~~G.S. 7A-517~~ G.S. 7B-101."

(mm) G.S. 143B-496 reads as rewritten:

**"§ 143B-496. Definitions.**

For the purpose of this Part:

(1) 'Missing child' means a juvenile as defined in ~~G.S. 7A-517(20)~~ 7B-101 whose location has not been determined, who has been reported as missing to a law-enforcement agency, and whose parent's, spouse's, guardian's or legal custodian's temporary or permanent residence is in North Carolina or is believed to be in North Carolina.

(2) 'Missing person' means any individual who is 18 years of age or older, whose temporary or permanent residence is in North Carolina, or is believed to be in North Carolina, whose location has not been determined, and who has been reported as missing to a law-enforcement agency.

(3) 'Missing person report' is a report prepared on a prescribed form for transmitting information about a missing person or a missing child to an appropriate law-enforcement agency."

(nn) G.S. 153A-221.1 reads as rewritten:

**"§ 153A-221.1. Standards and inspections.**

The legal responsibility of the Secretary of Health and Human Services and the Social Services Commission for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training. Further, the legal responsibility of the Department of Health and Human Services is hereby expanded to give said Department the same legal responsibility as to the State-administered regional detention homes which shall be developed by the State Department of Correction as provided by ~~G.S. 134A-37~~ G.S. 7B-4008.

The Secretary of Health and Human Services shall develop new standards which shall be applicable to county detention homes and regional detention homes as defined by ~~G.S. 134-36~~ Article 40 of Chapter 7B of the General Statutes in line with the recommendations of the report entitled Juvenile Detention in North Carolina: A Study Report (January, 1973) where practicable, and such new standards shall become effective not later than July 1, 1977.

The Secretary of Health and Human Services shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards,

providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

(oo) If G.S. 143B-150.20 is enacted by Senate Bill 1366 of the 1997 General Assembly, then, effective July 1, 1999, G.S. 143B-150.20 is amended by deleting "G.S. 7A-675.1(d)" and substituting "G.S. 7B-2902(d)".

Section 14. Effective October 1, 1999, G.S. 14-208.31 reads as rewritten:

**"§ 14-208.31. File with Police Information Network.**

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with ~~G.S. 7A-675.~~ Article 32 of Chapter 7B of the General Statutes."

Section 15. G.S. 7A-302 reads as rewritten:

**"§ 7A-302. Counties and municipalities responsible for physical facilities.**

In each county in which a district court has been established, ~~courtrooms~~ courtrooms, office space for juvenile court counselors and support staff as assigned by the Office of Juvenile Justice, and related judicial facilities (including furniture), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the Administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the 'facilities fee,' collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities."

**PART XI. DIRECTIVES, STUDIES, REPORTS AND TRAINING**

Section 16. The Department of Justice shall revise the Division of Criminal Information's juvenile arrest form that is used by State and local law enforcement agencies to provide more realistic reporting options and case disposition information. The Department of Justice shall rename the "Juvenile Arrest" form the "Juvenile Contact Report", with instructions to law enforcement "Use to Record the Handling of Juveniles Who Commit Criminal Offenses" and shall amend the report based on the form included with Recommendation 51 of the March 10, 1998, final report of the Governor's Commission on Juvenile Crime and Justice.

Section 17. (a) The Department of Justice shall develop guidelines for minority sensitivity training for all law enforcement personnel throughout the State. The Department shall ensure that all persons who work with minority juveniles in the juvenile justice system are taught how to communicate effectively with minority juveniles and how to recognize and address the needs of those juveniles. The Department shall also advise all law enforcement and professionals who work within

the juvenile justice system of ways to improve the treatment of minority juveniles so that all juveniles receive equal treatment. Except where local law enforcement has existing minority sensitivity training that meets the Department guidelines, the Department shall conduct the minority sensitivity training annually. Prior to the training each year, the Department shall assess whether minorities are receiving fair and equal treatment in the juvenile justice system with regard to the administration of predisposition procedures, of diversion methods, of dispositional alternatives, and of treatment and post-release supervision plans.

(b) The Office of Juvenile Justice shall ensure that all juvenile court counselors and other Division personnel receive the minority sensitivity training specified in subsection (a) of this section. The Chief Justice of the North Carolina Supreme Court shall consider ensuring that all judges who hear cases under the jurisdiction of the juvenile court receive minority sensitivity training.

(c) All guidelines and training required by this section shall be in effect no later than May 1, 1999.

Section 18. (a) The Office of Juvenile Justice shall provide training for juvenile court counselors and all other Office personnel on the provisions of Chapter 7B of the General Statutes as enacted by this act and may contract with qualified educational institutions to provide such training.

(b) The Administrative Office of the Courts shall provide training for court personnel, including judges and district attorneys, on the provisions of Chapter 7B of the General Statutes as enacted by this act and may contract with qualified educational institutions to provide such training.

(c) The Department of Justice shall provide training for law enforcement personnel throughout the State on the provisions of Chapter 7B of the General Statutes as enacted by this act.

(d) Training of all existing personnel, pursuant to this section, shall be completed no later than July 1, 1999.

Section 19. The Legislative Research Commission may review the changes proposed to the juvenile justice system contained in House Bill 1561 and Senate Bill 1513 of the 1997 General Assembly. The study may include other issues relevant to the disposition of abuse, neglect, and dependency cases. The Legislative Research Commission shall report its findings, recommendations, and any legislative proposals to the 1999 General Assembly.

Section 20. (a) The State Board of Education shall study the feasibility and advisability of delaying the start of the school day in order to provide students with constructive projects and tasks during late afternoon hours of the school week. If the Board recommends that the school day be delayed, the Board shall consider whether the local school administrative units should provide supervision of students whose working parents do not have early morning child care available.

(b) The State Board of Education shall report its findings, recommendations, and any legislative proposals to the Joint Legislative Education Oversight Committee on or before May 1, 1999.

Section 21. (a) The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall develop a juvenile justice information plan for creation of the juvenile justice information system. The plan shall ensure that the information system will enable the State to evaluate the efficiency and effectiveness of the overall juvenile justice system as well as to monitor and evaluate the progress of individual clients and shall specify the:

- (1) Scope and purpose of the system;
- (2) Management information that will be collected and tracked;
- (3) General design of the system;
- (4) Estimates of the short- and long-range cost of the system and the potential sources and amounts of federal funding; and
- (5) Estimated time required to develop the system.

The plan shall include priorities for system development, implementation, and options, including cost estimates for phasing in components of the system. In developing the plan, the Criminal Justice Information Network Governing Board shall consult with the Information Resources Management Commission on the design and estimated cost of the system. The Board shall also consult with the Sentencing and Policy Advisory Commission and with all agencies likely to be part of or need access to the juvenile justice information system.

(b) Pursuant to the juvenile justice information plan, the Criminal Justice Information Network Governing Board shall develop a comprehensive juvenile justice information system. The Board shall develop a system to collect data and information about every juvenile who is alleged to be delinquent from the time a complaint is filed against the juvenile, including:

- (1) Fingerprints and photographs taken of the juvenile;
- (2) Diversion agreements or plans entered into by the juvenile;
- (3) Community services provided to the juvenile and any participation of the juvenile in community-based programs;
- (4) Court orders or dispositions of the juvenile; and
- (5) Plans for care or treatment or for post-release supervision prepared by the Office of Juvenile Justice.

The system shall allow for information and data on juveniles to be kept in a form to be shared among appropriate agencies to develop treatment and intervention plans based on specific data and to allow reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.

(c) The Criminal Justice Information Network Governing Board shall also study the most appropriate methods and procedures for obtaining, retaining, and releasing fingerprints and photographs of juveniles alleged to be delinquent, including:

- (1) How to identify fingerprints and photographs of juveniles, including the use of social security numbers;
- (2) How long fingerprints and photographs of juveniles should be maintained in the criminal justice information system;

- (3) The extent to which juvenile fingerprints and photographs are kept confidential;
  - (4) The circumstances or conditions under which juvenile fingerprints and photographs should be disseminated;
  - (5) Whether juvenile fingerprints and photographs should be kept separate from adult records and files; and
  - (6) When the juvenile fingerprints and photographs should be destroyed.
- (d) The Criminal Justice Information Network Governing Board shall consider the issue of expunction of juvenile records, including the appropriate length of time juvenile records should be available to law enforcement, prosecutors, and service providers and under what limitations and conditions records should be expunged.
- (e) The Criminal Justice Information Network Governing Board shall report to the Chairs of the Senate and House Appropriations Committees and to the Fiscal Research Division of the General Assembly on the proposed system and any findings, recommendations, and legislative proposals from its study on or before May 1, 1999.

Section 22. (a) The Office of Juvenile Justice shall develop a cost-effective plan to establish statewide community-based dispositional alternatives for juveniles who are adjudicated delinquent. The plan shall include a funding strategy to encourage communities to provide local resources, services, and treatment options to meet the physical, emotional, and mental needs of juveniles and their families. In developing the plan, the Office shall consider the following community-based alternatives:

- (1) Home-based family counseling with family support groups that can provide required intervention services;
- (2) After-school activity programs for middle school juveniles targeted at potential at-risk juveniles during the time when most juvenile crimes occur;
- (3) Inpatient and outpatient substance abuse and sex offender treatment programs;
- (4) Intensive supervision of high-risk juveniles; and
- (5) Group homes with psychological treatment and programs for juveniles who do not pose a threat to the public but who need long-term intervention services.

In addition, in developing the plan, the Office shall recommend which judicial districts with high crime rates should have nonresidential day reporting centers to provide intensive supervision.

(b) The Office shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division of the General Assembly on the proposed plan, the cost of the plan, and on any legislative proposals required to implement the plan on or before April 1, 2000.

Section 23. (a) The Office of Juvenile Justice shall establish a phased-in 10-county pilot On Track program as an additional probation option for certain juvenile delinquents who are subject to Level 2 disposition. Juveniles enrolled in this program will be placed under the supervision of a special On Track court counselor as case

manager for the juvenile. Every juvenile enrolled in the On Track program will be subjected to a risk and needs assessment, a responsibility contract, a restitution requirement, parental accountability, counseling attendance, and graduation upon completion of the program. The responsibility contract shall be signed by the juvenile, the juvenile's parents, guardian or custodian, and the On Track court counselor. The contract shall include the agreement of the parties to restitution requirements, school attendance and appropriate school conduct, extracurricular school activity participation, obedience to parental supervision, counseling requirements, and requirements for abstinence from substance abuse. The program shall provide for intense intervention by the On Track court counselor. Each juvenile enrolled shall be assigned a trained mentor by the On Track court counselor.

(b) This section shall not become effective until funds are appropriated to implement this section.

Section 24. (a) The Office of Juvenile Justice shall establish three pilot Guard Response Alternative Sentencing Programs in three separate District Court Divisions as an additional probation option for certain first-time juvenile delinquents who are subject to Level 2 disposition through contract services.

(b) This section shall not become effective until funds are appropriated to implement this section.

Section 25. (a) The Administrative Office of the Courts shall establish pilot programs for the holding of family court within district court districts to be chosen by the Administrative Office of the Courts. Each pilot program shall be conducted following the guidelines for the establishment of family courts contained in the report of the Commission for the Future of Justice and the Courts in North Carolina and shall be assigned to hear all matters involving intrafamily rights, relationships, and obligations, and all juvenile justice matters, including:

- (1) Child abuse, neglect, and dependency;
- (2) Delinquent and undisciplined juvenile matters;
- (3) Emancipation of minors and termination of parental rights;
- (4) Divorce;
- (5) Annulment;
- (6) Equitable distribution;
- (7) Alimony and postseparation support;
- (8) Child custody;
- (9) Child support;
- (10) Paternity;
- (11) Adoption;
- (12) Domestic violence civil restraining orders;
- (13) Abortion consent waivers;
- (14) Adult protective services; and
- (15) Guardianship, involuntary commitment, and voluntary admissions to mental health facilities.

(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and

to the Fiscal Research Division of the General Assembly by March 1, 2000, on the success of the pilot programs in bringing consistency, efficiency, and fairness to the resolution of family matters and on the impact of the programs on caseloads in the district court division.

(c) If no funds are appropriated in the 1998-99 fiscal year to implement this section, this section shall not become effective.

Section 26. (a) The General Assembly finds that there are multiple risk factors that put youth at risk of becoming delinquent, such as aggression, school failure, child abuse and neglect, substance abuse, extreme economic deprivation, friends who engage in problem behavior, inconsistent and ineffective discipline, poor parental supervision, and family conflict. There are currently a number of screening programs available through a number of State and local entities that, if better coordinated, can provide adequate identification of delinquency risk factors so that delinquency prevention programs and services can be effective.

The General Assembly further finds that there are currently a number of State and local entities that provide delinquency prevention programs to at-risk youth and their families, including early intervention programs and programs improving cognitive and social competence and self-control skills, improving parenting skills, and providing positive role models. Many of these programs are already available and need only to be made more accessible and to be better coordinated with other existing programs and services.

(b) The Office of Juvenile Justice shall ensure that existing programs made available through a number of entities, both at the State and at the local level, that provide screenings that can provide adequate identification of delinquency risk factors, continue to be used in a consistent, coordinated, and cost-effective way so as to enable delinquency prevention programs and services to be utilized in a consistent, coordinated, and cost-effective way.

(c) In implementing this section, the Office shall cooperate with all affected State and local public and private entities, including local education agencies, local health departments, developmental evaluation centers, local departments of social services, the Division of Women and Children's Health, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services, law enforcement agencies, and nonprofit agencies.

(d) The Office shall report to the General Assembly by April 1, 2000, on its implementation of this section. This report shall include an evaluation of the screenings and prevention programs, an identification of any bars in the law or in any agency's policy that preclude effective cooperation, together with any legislative and rule recommendations that are needed, recommendations as to any new screening or prevention programs and services that are needed, and a detailed cost analysis of these recommendations.

Section 27. (a) The Office of Juvenile Justice, in cooperation with the Department of Public Instruction, shall study more effective and efficient ways to:

(1) Coordinate case management of delinquency and undisciplined cases;

- (2) Provide services to juveniles who are in need of treatment, counseling, or rehabilitation and to the families of those juveniles, including court-ordered parenting responsibility classes; and
- (3) Provide the maximum protection to the public and to local school administrative units, in particular, through the sharing of information between agencies that work with juveniles who are delinquent or undisciplined and increased accountability of those juveniles and their parents.

(b) On or before April 1, 2000, the Office of Juvenile Justice and the Department of Public Instruction shall report its findings and recommendations, including any legislative proposals, to the General Assembly.

Section 28. The Office of Juvenile Justice shall use available funds to develop a risk and needs assessment instrument to be used to determine the treatment needs of delinquent juveniles and the risk that a delinquent juvenile will commit additional delinquent acts. The Office shall consider including the following factors in the instrument:

- (1) Information regarding the juvenile's living situation;
- (2) Information regarding drug or alcohol use by the juvenile or a member of the juvenile's household or immediate family;
- (3) Information regarding the juvenile's school attendance; and
- (4) Information regarding the juvenile's family, including any criminal history.

The Office shall present the recommended risk and needs assessment instrument to the Joint Legislative Commission on Governmental Operations by May 1, 1999.

Section 29. The Office of Juvenile Justice shall use funds within its budget to evaluate the effectiveness of the reform measures implemented pursuant to the provisions of this act. The Office shall report the results of the evaluation and any recommended legislative amendments to Chapter 7B of the General Statutes to the Joint Legislative Commission on Governmental Operations by October 1, 2000.

Section 30. The Office of Juvenile Justice in consultation with the North Carolina Sentencing and Policy Advisory Commission shall study blended sentencing and direct filing in certain juvenile cases. The study shall include, among other issues, consideration of whether North Carolina should adopt a criminal-inclusive model of blended sentencing whereby (i) a presiding superior court judge may simultaneously impose a juvenile disposition and an adult criminal disposition upon a juvenile transferred to superior court, and (ii) execution of the adult criminal disposition is suspended during imposition of the juvenile disposition and pending a violation or reoffense by the juvenile. The study shall examine various models of blended sentencing, and may include a comprehensive survey of other states that have adopted variations of blended sentencing. The study shall also examine whether a prosecutor should have the authority to directly charge a juvenile as an adult in the case of 15-year-olds who have committed Class A-E felonies. The Office shall report the results of the



study, including any legislative recommendations, to the General Assembly no later than March 15, 2000.

Section 31. The Office of Juvenile Justice, in cooperation with the Department of Health and Human Services, shall study the funding process for juvenile delinquency and substance abuse prevention programs provided for in this act. The study shall consider whether the process should be designed in such a way that funds are allocated to a program for a specific juvenile being served by the program, and whether the allocated funding should then follow that juvenile. The Office shall also consider whether a county should continue to fund services for a juvenile who has been receiving delinquency prevention services and is subsequently adjudicated delinquent and committed to training school, and whether, if still appropriate to reduce the recidivism risk, the county should send the program dollars to the training school. The Office shall report its findings and recommendations, by May 1, 1999, to the Fiscal Research Division of the General Assembly and to the Chairs of the House and Senate Appropriations Committees and to the Chairs of the Appropriations Subcommittees on Human Resources.

Section 32. The State Board of Education, through the Department of Public Instruction, shall study and report to the General Assembly on ways for the State to provide an alternative educational program for any student suspended or expelled from school. This study shall include (i) a review of current safe school plans and alternative educational programs, (ii) an analysis of current data on suspensions and expulsions, (iii) an assessment of federal, state, local, and private resources currently available to provide an educational program for students suspended or expelled from school, (iv) research of other educational programs offered by other State agencies, (v) a review of current law related to suspension and expulsion from school and the right to a public education, (vi) recommendations for a plan and timetable for implementing alternative educational programs for every student suspended or expelled from school, and (vii) a review of policies and procedures for transporting aggressive or assaultive students with other students, including disabled students, and development of a plan to insure the protection of all students, particularly disabled students from physical harm by aggressive or assaultive students. The State Board of Education shall report the results of this study, including any legislative recommendations, to the Joint Legislative Education Oversight Committee by May 1, 1999.

Section 33. The Office of Juvenile Justice shall use funds within its budget to study the overrepresentation of racial minorities in the juvenile justice system. The Office shall compare the dispositions for minority juveniles adjudicated delinquent or undisciplined with the dispositions for nonminority juveniles. The Office shall also compare the services made available to minority and nonminority juveniles and their families. To the extent that inequities are found, the Office shall make recommendations, including any legislative proposals, as to how those disparities should be addressed. The Office may hire an outside consultant to assist it with its work.

The Office shall report annually, no later than May 1, to the Governor, Chief Justice, and the General Assembly on any findings, recommendations, or legislative

proposals. The Office shall make its final report to the Governor, Chief Justice, and the General Assembly no later than May 1, 2002.

Section 34. The Office of Juvenile Justice shall use funds within its budget to study the use of detention facilities and make recommendations as to how those detention facilities could be utilized more efficiently. The study shall include a statistical analysis of the number of juveniles housed in detention facilities, the reasons for their detention, the length of their stays, and the numbers and frequency that juveniles are detained in adult jails. The Office shall report its findings and recommendations by May 1, 1999, and again by January 15, 2001, to the Fiscal Research Division of the General Assembly and the Chairs of the House and Senate Appropriations Committees.

## **PART XII. FACILITIES CONSTRUCTION**

Section 35. (a) The Office of State Construction of the Department of Administration may contract for and supervise all aspects of administration, technical assistance, design, construction, or demolition of any juvenile facilities authorized for the 1998-99 fiscal year, including renovation of existing adult facilities to juvenile facilities.

The facilities authorized for the 1998-99 fiscal year shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities. If the Secretary of Administration, after consultation with the Office of Juvenile Justice, finds that the delivery of juvenile facilities must be expedited for good cause, the Office of State Construction of the Department of Administration shall be exempt from the following statutes and rules implementing those statutes, to the extent necessary to expedite delivery: G.S. 143-135.26, 143-128, 143-129, 143-131, 143-132, 143-134, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(g), and 143-408.1 through 143-408.7.

Prior to exercising the exemptions allowable under this section, the Secretary of Administration shall give reasonable notice in writing of the Department's intent to exercise the exemptions to the Speaker of the House, the President Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations Committees, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division. The written notice shall contain at least the following information: (i) the specific statutory requirement or requirements from which the Department intends to exempt itself; (ii) the reason the exemption is necessary to expedite delivery of juvenile facilities; (iii) the way in which the Department anticipates the exemption will expedite the delivery of facilities; and (iv) a brief summary of the proposed contract for the project which is to be exempted.

The Office of State Construction of the Department of Administration shall have a verifiable ten percent (10%) goal for participation by minority and women-owned businesses. All contracts for the design, construction, or demolition of juvenile facilities shall include a penalty for failure to complete the work by a specified date.

The Office of State Construction of the Department of Administration shall consult the Department of Health and Human Services on these projects to the extent

that such involvement relates to the Department's program needs and to its responsibility for the care of the population of the facility.

(b) The Office of State Construction of the Department of Administration shall provide a report by May 1, 1999, to the Chairs of the Senate and House Appropriations Committees, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division as to any changes in projects and allocations authorized for the 1998-99 fiscal year. The report shall include information on which contractors have been selected, what contracts have been entered into, the projected and actual occupancy dates of facilities contracted for, the number of beds to be constructed on each project, the location of each project, and the projected and actual cost of each project.

### **PART XIII. SEVERABILITY CLAUSE**

Section 36. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

### **PART XIV. EFFECTIVE DATES**

Section 37. (a) Sections 1, 3, 4, 15, 18, 22, 23, 24, 26 through 31, 33, and 34 of this act become effective January 1, 1999, and apply to acts committed on or after that date.

(b) Sections 2, 5 through 10, 12, and 13 of this act become effective July 1, 1999, and apply to acts committed on or after that date.

(c) Sections 11 and 14 of this act become effective October 1, 1999.

(d) The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of October, 1998.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 10:45 a.m. this 27th day of October, 1998