

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1561\*

Short Title: Juvenile Law Revision.

(Public)

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Sponsors: Representatives Neely; Hurley and Morris.

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Referred to: Judiciary II, if favorable, Appropriations.

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May 28, 1998

A BILL TO BE ENTITLED

1 AN ACT TO REWRITE THE JUVENILE CODE TO UPDATE THE LAW ON  
2 ABUSE, NEGLECT, AND DEPENDENCY, TO CONFORM THIS LAW TO  
3 FEDERAL ADOPTION LAW, TO INCORPORATE THE RECOMMENDATIONS  
4 OF THE GOVERNOR'S COMMISSION ON JUVENILE CRIME AND JUSTICE  
5 INTO THE LAW ON UNDISCIPLINEDNESS AND DELINQUENCY, TO MAKE  
6 CONFORMING CHANGES, AND TO APPROPRIATE FUNDS TO IMPLEMENT  
7 THESE CHANGES.  
8

9 The General Assembly of North Carolina enacts:

10  
11 **PART I. RECODIFICATION AND REWRITING OF THE LAW ON ABUSED,  
12 NEGLECTED, AND DEPENDENT CHILDREN.**

13  
14 Section 1. The General Statutes are amended by adding a new chapter,  
15 Chapter 7B, titled "The Juvenile Code". Subchapter XI of Chapter 7A of the General  
16 Statutes is recodified as Subchapter I of new Chapter 7B of the General Statutes and  
17 reads as rewritten:

18 **"Chapter 7B.**  
19 **"THE JUVENILE CODE.**

1 "SUBCHAPTER I. NORTH CAROLINA JUVENILE CODE, CODE ON ABUSE,  
2 NEGLECT, AND DEPENDENCY OF CHILDREN.

3 "ARTICLE

4 "Purpose; Definitions.

5 **"§ 7A—This Subchapter shall be interpreted and construed so as to implement the**  
6 **following purposes and policies:**

- 7 (1) ~~To divert juvenile offenders from the juvenile system through the intake~~  
8 ~~services authorized herein so that juveniles may remain in their own~~  
9 ~~homes and may be treated through community-based services when this~~  
10 ~~approach is consistent with the protection of the public safety;~~  
11 (1) To provide that the health and the safety of the child shall be of  
12 paramount concern;  
13 (2) To provide procedures for the hearing of juvenile children's cases that  
14 assure fairness and equity and that protect the constitutional rights of  
15 juveniles children and parents;  
16 (3) To develop a disposition in each juvenile child's case that reflects  
17 consideration of the facts, the needs and limitations of the child, and the  
18 strengths and weaknesses of the family, and the protection of the public  
19 safety; family;  
20 (4) To provide for services for the protection of juveniles children by means  
21 that respect both the right to family autonomy and juveniles' children's  
22 needs for safety, continuity, and permanence; and  
23 (5) To provide standards for the removal, when necessary, of juveniles  
24 children from their homes and for the return of juveniles children to  
25 their homes consistent with preventing the unnecessary or inappropriate  
26 separation of juveniles children from their parents.

27 **"§ ~~7A-517. 7B-101.~~ Definitions.**

28 Unless the context clearly requires otherwise, the following words have the listed  
29 meanings:

- 30 (1) Abused juveniles child – Any juvenile child less than 18 years of age  
31 whose parent, guardian, custodian, or caretaker:  
32 a. Inflicts or allows to be inflicted upon the juvenile child a serious  
33 physical injury by other than accidental means; or  
34 b. Creates or allows to be created a substantial risk of serious  
35 physical injury to the juvenile child by other than accidental  
36 means; or  
37 b1. Uses or allows to be used upon the juvenile child cruel or grossly  
38 inappropriate procedures or cruel or grossly inappropriate  
39 devices to modify behavior; or  
40 c. Commits, permits, or encourages the commission of a violation  
41 of the following laws by, with, or upon the juvenile child: first  
42 degree rape, as provided in G.S. 14-27.2; second degree rape as  
43 provided in G.S. 14-27.3; first degree sexual offense, as provided

- 1 in G.S. 14-27.4; second degree sexual offense, as provided in  
2 G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-  
3 27.7; crime against nature, as provided in G.S. 14-177; incest, as  
4 provided in G.S. 14-178 and 14-179; preparation of obscene  
5 photographs, slides or motion pictures of the ~~juvenile~~, child, as  
6 provided in G.S. 14-190.5; employing or permitting the ~~juvenile~~  
7 child to assist in a violation of the obscenity laws as provided in  
8 G.S. 14-190.6; dissemination of obscene material to the ~~juvenile~~  
9 child as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying  
10 or disseminating material harmful to the ~~juvenile~~ child as  
11 provided in G.S. 14-190.14 and G.S. 14-190.15; first and second  
12 degree sexual exploitation of the ~~juvenile~~ child as provided in  
13 G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of  
14 the ~~juvenile~~ child as provided in G.S. 14-190.18; and taking  
15 indecent liberties with the ~~juvenile~~, child as provided in G.S. 14-  
16 202.1, regardless of the age of the parties; or
- 17 d. Creates or allows to be created serious emotional damage to the  
18 ~~juvenile~~ child. Serious emotional damage is evidenced by a  
19 ~~juvenile's~~ child's severe anxiety, depression, withdrawal or  
20 aggressive behavior toward himself or others; or
- 21 e. Encourages, directs, or approves of delinquent acts involving  
22 moral turpitude committed by the ~~juvenile~~ child.
- 23 (2) ~~Aftercare. — The supervision of a juvenile who has been returned to the~~  
24 ~~community on conditional release after having been committed to the~~  
25 ~~Division of Youth Services.~~
- 26 (3) ~~Administrator for Juvenile Services. — The person who is responsible~~  
27 ~~for the planning, organization, and administration of a statewide system~~  
28 ~~of juvenile intake, probation, and aftercare services.~~
- 29 (4) ~~Director of the Division of Youth Services. — The person responsible for~~  
30 ~~the supervision of the administration of institutional and detention~~  
31 ~~services.~~
- 32 (2) Aggravated circumstances. — Any circumstance attending to the  
33 commission of an act of abuse or neglect that increases its enormity or  
34 adds to its injurious consequences, including but not limited to  
35 abandonment, torture, chronic abuse, or sexual abuse.  
36 guardian, or custodian who has responsibility for the health and welfare  
37 of a ~~juvenile~~ child in a residential setting. A person responsible  
38 for ~~juvenile's~~ child's health and welfare means a stepparent, foster  
39 parent, an adult member of the ~~juvenile's~~ child's household, an adult  
40 relative entrusted with the ~~juvenile's~~ child's care, or any person such as a  
41 house parent or cottage parent who has primary responsibility for  
42 supervising a ~~juvenile's~~ child's health and welfare in a residential child  
43 care facility or residential educational facility. 'Caretaker' also means

1 any person who has the responsibility for the care of a juvenile in a  
2 child care facility as defined in Article 7 of Chapter 110 of the General  
3 Statutes and includes any person who has the approval of the care  
4 provider to assume responsibility for the juveniles under the care of the  
5 care provider. Nothing in this subdivision shall be construed to impose  
6 a legal duty of support under Chapter 50 or Chapter 110 of the General  
7 Statutes. The duty imposed upon a caretaker as defined in this  
8 subdivision shall be for the purpose of Chapter ~~7A-7B~~ of the General  
9 Statutes only.

- 10 ~~(6)~~ Chief Court Counselor. — The person responsible for administration and  
11 supervision of juvenile intake, probation, and aftercare in each judicial  
12 district, operating under the supervision of the Administrator for  
13 Juvenile Services.
- 14 (4) Child. — Any person who has not reached the eighteenth birthday and is  
15 not married, emancipated, or a member of the armed services of the  
16 United States. Wherever the term 'child' is used with reference to rights  
17 and privileges, this term encompasses the attorney or guardian ad litem  
18 for the child as well.
- 19 ~~(7)~~ (5) Clerk. — Any clerk of superior court, acting clerk, or assistant or deputy  
20 clerk.
- 21 ~~(8)~~ Community-based program. — A program providing nonresidential or  
22 residential treatment to a juvenile in the community where his family  
23 lives. A community-based program may include specialized foster care,  
24 family counseling, shelter care, and other appropriate treatment.
- 25 ~~(9)~~ (6) Court. — The District Court Division of the General Court of Justice.
- 26 (7) Court of Competent Jurisdiction. — A court having the power and  
27 authority of law to act at the time of acting over the subject matter of the  
28 cause.
- 29 ~~(10)~~ Court counselor. — A person responsible for probation and aftercare  
30 services to juveniles on probation or on conditional release from the  
31 Division of Youth Services under the supervision of the chief court  
32 counselor.
- 33 ~~(11)~~ (8) Custodian. — The person or agency that has been awarded legal custody  
34 of a juvenile child by a court.
- 35 ~~(12)~~ Delinquent juvenile. — Any juvenile less than 16 years of age who has  
36 committed a crime or infraction under State law or under an ordinance  
37 of local government, including violation of the motor vehicle laws.
- 38 ~~(13)~~ (9) Dependent Juvenile Child — A juvenile child in need of assistance or  
39 placement because the juvenile child has no parent, guardian, or  
40 custodian responsible for the juvenile's child's care or supervision or  
41 whose parent, guardian, or custodian is unable to provide for the care or  
42 supervision and lacks an appropriate alternative child care arrangement.

- 1           (14) ~~Detention.—The confinement of a juvenile pursuant to an order for~~  
2           ~~secure custody pending an adjudicatory or dispositional hearing or~~  
3           ~~admission to a placement with the Division of Youth Services.~~
- 4           (15) ~~Detention home.—An authorized facility providing secure custody for~~  
5           ~~juveniles.~~
- 6           (15a)(10) District. – Any district court district as established by G.S. 7A-133.
- 7           (16) ~~Holdover facility.—A place in a jail which has been approved by the~~  
8           ~~Department of Health and Human Services as meeting the State~~  
9           ~~standards for detention as required in G.S. 153A-221 providing close~~  
10           ~~supervision where the juvenile cannot converse with, see, or be seen by~~  
11           ~~the adult population.~~
- 12           (16.1) (11) In loco parentis. – A person acting in loco parentis means one, other  
13           than parents or legal guardian, who has assumed the status and  
14           obligation of a parent without being awarded the legal custody of a  
15           juvenile child by a court.
- 16           (17) ~~Intake counselor.—A person who screens a petition alleging that a~~  
17           ~~juvenile is delinquent or undisciplined to determine whether the petition~~  
18           ~~should be filed.~~
- 19           (18) ~~Interstate Compact on Juveniles.—An agreement ratified by 50 states~~  
20           ~~and the District of Columbia providing a formal means of returning a~~  
21           ~~juvenile, who is an absconder, escapee or runaway, to his home state.~~
- 22           (19) (12) Judge. – Any district court judge.
- 23           (19a) (13) Judicial district. – Any district court district as established by G.S. 7A-  
24           133.
- 25           (20) ~~Juvenile.—Any person who has not reached his eighteenth birthday and~~  
26           ~~is not married, emancipated, or a member of the armed services of the~~  
27           ~~United States. For the purposes of subdivisions (12) and (28) of this~~  
28           ~~section, a juvenile is any person who has not reached his sixteenth~~  
29           ~~birthday and is not married, emancipated, or a member of the armed~~  
30           ~~forces. A juvenile who is married, emancipated, or a member of the~~  
31           ~~armed forces, shall be prosecuted as an adult for the commission of a~~  
32           ~~criminal offense. Wherever the term "juvenile" is used with reference to~~  
33           ~~rights and privileges, that term encompasses the attorney for the juvenile~~  
34           ~~as well.~~
- 35           (21) (14) Neglected Juvenile Child. – A juvenile child who does not receive  
36           proper care, supervision, or discipline from the juvenile's child's parent,  
37           guardian, custodian, or caretaker; or who has been abandoned; or who is  
38           not provided necessary medical care; or who is not provided necessary  
39           remedial care; or who lives in an environment injurious to the juvenile's  
40           child's welfare; or who has been placed for care or adoption in violation  
41           of law. In determining whether a juvenile child is a neglected juvenile,  
42           child, it is relevant whether that juvenile child lives in a home where  
43           another juvenile child has been subjected to abuse or neglect by an adult

- 1 who regularly lives in the home. In determining whether a child is a  
2 neglected child, it is relevant whether the mother or the child or both  
3 had controlled substances present in in their bodily systems at the birth  
4 of the child.
- 5 (22) (15) Petitioner. – The individual who initiates court action, whether by the  
6 filing of a petition or of a motion for review alleging the matter for  
7 adjudication.
- 8 (23) Probation. — ~~The status of a juvenile who has been adjudicated~~  
9 ~~delinquent, is subject to specified conditions under the supervision of a~~  
10 ~~court counselor, and may be returned to the court for violation of those~~  
11 ~~conditions during the period of probation.~~
- 12 (24) Prosecutor. — ~~The assistant district attorney assigned by the district~~  
13 ~~attorney to juvenile proceedings.~~
- 14 (25) Protective supervision. — ~~The status of a juvenile who has been~~  
15 ~~adjudicated delinquent or undisciplined and is under the supervision of a~~  
16 ~~court counselor.~~
- 17 (25a) (16) Reasonable efforts. – The diligent use of preventive or reunification  
18 services by a department of social services when a ~~juvenile's~~ child's  
19 remaining at home or returning home is consistent with achieving a  
20 safe, permanent home for the ~~juvenile~~ child within a reasonable period  
21 of ~~time.~~ time or, when the child is not to be returned home, the diligent  
22 and timely use of permanency planning services by a department of  
23 social services to develop and implement a permanent plan for the child.
- 24 (26) Regional detention home. — ~~A state supported and administered regional~~  
25 ~~facility providing detention care.~~
- 26 (26a) Safe home. — ~~A home in which the child is not at substantial risk of~~  
27 ~~physical or emotional abuse or neglect.~~
- 28 (27) Shelter care. — ~~The temporary care of a juvenile in a physically~~  
29 ~~unrestricting facility pending court disposition.~~
- 30 (28) Undisciplined juvenile. — ~~A juvenile less than 16 years of age who is~~  
31 ~~unlawfully absent from school; or who is regularly disobedient to his~~  
32 ~~parent, guardian, or custodian and beyond their disciplinary control; or~~  
33 ~~who is regularly found in places where it is unlawful for a juvenile to~~  
34 ~~be; or who has run away from home.~~
- 35 (29) (17) Director of the department of social services. – The director of the  
36 county department of social services in the county in which the ~~juvenile~~  
37 child resides or is found, or ~~his~~ the director's representative as  
38 authorized in G.S. 108A-14.

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

41 "ARTICLE 42. 2.

42 "Jurisdiction.

43 "§ 7A-523. 7B-200. Jurisdiction.

1 (a) The court has exclusive, original jurisdiction over any case involving a juvenile  
2 child who is alleged to be ~~delinquent, undisciplined,~~ abused, neglected, or dependent.  
3 This jurisdiction does not extend to cases involving adult defendants alleged to be guilty  
4 of abuse or neglect. For purposes of determining jurisdiction, ~~with the exception of~~  
5 ~~[subsection] (e) below,~~ jurisdiction, the age of the juvenile child either at the time of the  
6 ~~alleged offense or~~ when the conditions causing the juvenile child to be abused, neglected,  
7 or dependent arose, governs. There is no minimum age for juveniles children alleged to  
8 be abused, dependent or neglected. ~~For juveniles alleged to be delinquent or~~  
9 ~~undisciplined, the minimum age is six years of age.~~

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

- 11 (1) Proceedings under the Interstate Compact on Placement of Children;  
12 Juveniles and the Interstate Parole and Probation Hearing Procedures for  
13 Juveniles;  
14 (2) ~~Proceedings to determine whether a juvenile who is on conditional~~  
15 ~~release and under the aftercare supervision of the court counselor has~~  
16 ~~violated the terms of the juvenile's conditional release established by the~~  
17 ~~Division of Youth Services;~~  
18 (3) (2) Proceedings involving judicial consent for emergency surgical or  
19 medical treatment for a juvenile child when the juvenile's child's parent,  
20 guardian, legal custodian, or other person standing in loco parentis  
21 refuses to consent for treatment to be rendered;  
22 (4) (3) Proceedings to determine whether a juvenile child should be  
23 emancipated;  
24 (5) (4) Proceedings to terminate parental rights;  
25 (6) (5) Proceedings to review the placement of a juvenile child in foster care  
26 pursuant to an agreement between the juvenile's child's parents or  
27 guardian and a county department of social services;  
28 (7) (6) Proceedings in which a person is alleged to have obstructed or interfered  
29 with an investigation required by G.S. ~~7A-544.~~ 7B-302; and  
30 (8) (7) Proceedings involving consent for an abortion on an unemancipated  
31 minor pursuant to Article 1A, Part 2 of Chapter 90 of the General  
32 Statutes.

33 (b) The court shall have jurisdiction over the parent of a juvenile child who has  
34 been adjudicated ~~delinquent, undisciplined,~~ abused, neglected or dependent, as provided  
35 by G.S. ~~7A-564,~~ 7A-940, provided the parent has been properly served with ~~notice~~  
36 ~~summons~~ pursuant to G.S. ~~7A-564.~~ 7B-406.

37 (e) ~~When the court has not obtained jurisdiction over a juvenile before the juvenile~~  
38 ~~reaches the age of eighteen, for a felony and any related misdemeanors the juvenile~~  
39 ~~allegedly committed on or after the juvenile's thirteenth birthday and prior to the~~  
40 ~~juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting~~  
41 ~~proceedings pursuant to Article 49 of this Chapter and either transferring the case to~~  
42 ~~superior court for trial as an adult or dismissing the petition.~~

43 **"§ 7A-524. 7B-201. Retention of jurisdiction.**

1 When the court obtains jurisdiction over a ~~juvenile, child,~~ jurisdiction shall continue  
2 until terminated by order of the court or until the ~~juvenile child~~ reaches the age of  
3 eighteen. ~~When delinquency proceedings cannot be concluded before the juvenile reaches~~  
4 ~~the age of eighteen, the court retains jurisdiction for the sole purpose of conducting~~  
5 ~~proceedings pursuant to Article 49 of this Chapter and either transferring the case to~~  
6 ~~superior court for trial as an adult or dismissing the petition. Any juvenile who is under~~  
7 ~~the jurisdiction of the court and commits a criminal offense after the juvenile's sixteenth~~  
8 ~~birthday is subject to prosecution as an adult. Any juvenile who is transferred to and~~  
9 ~~sentenced by the superior court for a felony offense shall be prosecuted as an adult for all~~  
10 ~~other crimes alleged to have been committed by the juvenile while the juvenile is under~~  
11 ~~the active supervision of the superior court. Nothing herein shall be construed to divest~~  
12 ~~the court of jurisdiction in abuse, neglect, or dependency proceedings.~~

13 ~~§§7A. ARTICLE 43.~~

14 ~~SCREENING OF DELINQUENCY AND UNDISCIPLINED PETITIONS.~~

15 ~~§ 7Ar The Chief Court Counselor, under the direction of the Administrator of~~  
16 ~~Juvenile Services, shall establish intake services in each judicial district of~~  
17 ~~the State for all delinquency and undisciplined cases.~~

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

26 ~~§ 7Aa When a complaint is received, the intake counselor shall make a preliminary~~  
27 ~~determination as to whether the juvenile is within the jurisdiction of the~~  
28 ~~court as a delinquent or undisciplined juvenile. If the intake counselor~~  
29 ~~finds that the facts contained in the complaint do not state a case within~~  
30 ~~the jurisdiction of the court, that legal sufficiency has not been established,~~  
31 ~~or that the matters alleged are frivolous, he shall, without further inquiry,~~  
32 ~~refuse authorization to file the complaint.~~

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

35 If the intake counselor finds reasonable grounds to believe that the juvenile has  
36 committed one of the following offenses, he shall, without further inquiry, authorize the  
37 complaint to be filed as a petition: murder; first or second degree rape; first or second  
38 degree sexual offense; arson; any violation of Article 5, Chapter 90 of the North Carolina  
39 General Statutes which would constitute a felony if committed by an adult; first degree  
40 burglary; crime against nature; or any felony which involves the willful infliction of  
41 serious bodily injury upon another or which was committed by use of a deadly weapon.

42 ~~§ 7Ad Upon a finding of legal sufficiency, except in the nondivertible offenses set out~~  
43 ~~in G.S. 7A-531, the intake counselor shall determine whether a complaint~~



1 ~~should be filed as a petition, the juvenile diverted to a community~~  
2 ~~resource, or the case resolved without further action. He shall consider~~  
3 ~~criteria which shall be provided by the Administrator of Juvenile Services~~  
4 ~~in making his decision. The intake process shall include the following steps~~  
5 ~~if practicable:~~

- 6 (1) ~~Interviews with the complainant and the victim if someone other than~~  
7 ~~the complainant;~~  
8 (2) ~~Interviews with the juvenile, his parent, guardian, or custodian;~~  
9 (3) ~~Interviews with persons known to have information about the juvenile~~  
10 ~~or family which information is pertinent to the case.~~

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

13 ~~§ 7A The evaluation of a particular complaint shall be completed within 15 days,~~  
14 ~~with an extension for a maximum of 15 additional days at the discretion of~~  
15 ~~the Chief Court Counselor. The intake counselor must decide within this~~  
16 ~~time period whether or not a complaint will be filed as a juvenile petition.~~  
17 ~~If the intake counselor determines that a complaint should be filed as a~~  
18 ~~petition, he shall assist the complainant when necessary with the~~  
19 ~~preparation and filing of the petition, or help with the preparation and~~  
20 ~~filing of the petition, shall endorse on it the date and the words "Approved~~  
21 ~~for filing," shall sign it beneath such words, and shall transmit it to the~~  
22 ~~clerk of superior court. If the intake counselor determines that a petition~~  
23 ~~should not be filed, he shall immediately notify the complainant in writing~~  
24 ~~with reasons for his decision and shall include notice of the complainant's~~  
25 ~~right to have the decision reviewed by the prosecutor. The intake~~  
26 ~~counselor shall then sign his name on the complaint beneath the words~~  
27 ~~"Not approved."~~

28 ~~Any complaint not approved for filing as a juvenile petition shall be destroyed by the~~  
29 ~~intake counselor after holding the complaint for a temporary period to allow follow up~~  
30 ~~and review as provided in G.S. 7A-534 and 7A-536.~~

31 ~~§ 7AG The intake counselor may refer any case to an appropriate public or private~~  
32 ~~resource unless the offense is one in which a petition is required as set out~~  
33 ~~in G.S. 7A-531. After making a referral, the intake counselor shall~~  
34 ~~ascertain that the juvenile actually contacted or was seen by the resource~~  
35 ~~to which he was referred. In the event that the juvenile does not contact or~~  
36 ~~visit the community resource, the intake counselor may reconsider his~~  
37 ~~decision to divert and may authorize the filing of a complaint as a petition~~  
38 ~~within 60 days from the date of the referral. If the juvenile contacts or is~~  
39 ~~seen by the resource, the intake counselor shall close the file.~~

40 ~~§ 7Ao The complainant has five calendar days, from receipt of the intake~~  
41 ~~counselor's decision not to approve the filing of a complaint, to request~~  
42 ~~review by the prosecutor. The intake counselor shall notify the prosecutor~~  
43 ~~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.~~

~~§ 7A afiled.~~

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

~~"ARTICLE 44.3.~~

~~"Screening of Abuse and Neglect Complaints.~~

~~"§ 7A-542.7B-300. Protective services.~~

~~The Director of the Department of Social Services in each county of the State shall establish protective services for juveniles children alleged to be abused, neglected, or dependent.~~

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

~~"§ 7A-543.7B-301. Duty to report child abuse, neglect, dependency, or death due to maltreatment. maltreatment; report.~~

~~(a) Any person or institution who has cause to suspect that any juvenile child is abused, neglected, or dependent, as defined by G.S. 7A-517, 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile child to the Director of the Department of Social Services in the county where the juvenile child 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 child sexual abuse in a child care facility, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual abuse in a child care facility is not alleged in the initial report, but during the~~

1 course of the investigation there is reason to suspect that child sexual abuse has occurred,  
2 the Director shall immediately notify the State Bureau of Investigation. Upon notification  
3 that child sexual abuse may have occurred in a child care facility, the State Bureau of  
4 Investigation may form a task force to investigate the report.

5 (b) The report of suspected child abuse, neglect or dependency as defined by G.S.  
6 telephone, or in writing. The report shall include information known to the person  
7 making it, including:

8 (1) The name and address of the child;

9 (2) The name and address of the child's parent, guardian, custodian or  
10 caretaker;

11 (3) The age of the child;

12 (4) The names and ages of other children in the home;

13 (5) The present whereabouts of the child if not at the home address;

14 (6) The nature and extent of any injury or condition resulting from abuse,  
15 neglect, or dependency;

16 (7) Any other information which the person making the report believes  
17 might be helpful in establishing the need for protective service or court  
18 intervention.

19 The person making the report shall give the person's name, address, and telephone  
20 number. Refusal of the person making the report to give a name shall not preclude the  
21 Department's investigation of the alleged abuse, neglect, or dependency.

22 **"§ 7A-544. ~~7B-302.~~ Investigation by Director; access to confidential information;**  
23 **notification of person making the report.**

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

36 When a report of a child's death as a result of suspected maltreatment or a report of  
37 suspected abuse, neglect, or dependency of a ~~juvenile-child~~ is received, the Director of  
38 the Department of Social Services shall immediately ascertain if other ~~juveniles-children~~  
39 ~~remain-reside~~ in the ~~home~~, family home of the alleged perpetrator, and, if so, initiate an  
40 investigation in order to determine whether they require protective services or whether  
41 immediate removal of the ~~juveniles-children~~ from the home is necessary for their  
42 protection.

1        The department of social services shall complete its investigation within 30 days of  
2 the receipt of the report or shall ensure that there are fully documented reasons for delay  
3 in the Child Protective Services record.

4        (b) Removal of Child From Home. – If the investigation indicates that abuse,  
5 neglect, or dependency has occurred, the Director shall decide whether immediate  
6 removal of the ~~juvenile-child~~ or any other ~~juveniles-children~~ in the home is necessary for  
7 their protection. If immediate removal does not seem necessary, the Director shall  
8 immediately provide or arrange for protective services. If the ~~parent-or-parent,~~ guardian,  
9 custodian, or other caretaker refuses to accept the protective services provided or  
10 arranged by the Director, the Director shall sign a complaint seeking to invoke the  
11 jurisdiction of the court for the protection of the ~~juvenile-or-juveniles-~~child or children.

12        If immediate removal seems necessary for the protection of the ~~juvenile-child~~ or other  
13 ~~juveniles-children~~ in the home, the Director shall sign a ~~complaint-petition~~ which alleges  
14 the applicable facts to invoke the jurisdiction of the court. ~~court and seek a nonsecure~~  
15 custody order. Where the investigation shows that it is warranted, a protective services  
16 worker may assume temporary custody of the ~~juvenile-child~~ for the ~~juvenile's-child's~~  
17 protection pursuant to Article 46 of this Chapter.

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

40        (d) Notice to Reporter. – Within five working days after receipt of the report of  
41 abuse, neglect, or dependency, the Director shall give written notice to the person making  
42 the report, unless requested by that person not to give notice, as to whether the report was

1 accepted for investigation and whether the report was referred to the appropriate State or  
2 local law enforcement agency.

3 Within five working days after completion of the protective services investigation, the  
4 Director shall give subsequent written notice to the person making the report, unless  
5 requested by that person not to give notice, as to whether there is a finding of abuse,  
6 neglect, or dependency, whether the county Department of Social Services is taking  
7 action to protect the ~~juvenile, child,~~ and what action it is taking, including whether or not  
8 a petition was filed. The second notification shall inform the person making the report  
9 shall be informed of procedures necessary to request a review by the prosecutor of the  
10 Director's decision not to file a petition. A request for review by the prosecutor shall be  
11 made within five working days of receipt of the second notification. The second  
12 notification shall include notice that, if the person making the report is not satisfied with  
13 the Director's decision, he may request review of the decision by the prosecutor within  
14 five working days of receipt. The person making the report may waive the person's right  
15 to this notification and no notification is required if the person making the report does not  
16 identify himself to the Director.

17 "**§ 7A-544.1-7B-303. Interference with investigation.**

18 (a) If any person obstructs or interferes with an investigation required by G.S. ~~7A-~~  
19 ~~544, 7B-302,~~ the Director may file a petition naming ~~said this~~ person as respondent and  
20 requesting an order directing the respondent to cease ~~such this~~ obstruction or interference.  
21 The petition shall contain the name and date of birth and address of the ~~juvenile child~~  
22 who is the subject of the investigation, shall specifically describe the conduct alleged to  
23 constitute obstruction of or interference with the investigation, and shall be verified.

24 (b) For purposes of this section, obstruction of or interference with an  
25 investigation means refusing to disclose the whereabouts of the ~~juvenile, child,~~ refusing  
26 to allow the director to have personal access to the ~~juvenile, child,~~ refusing to allow the  
27 director to observe or interview the ~~juvenile child~~ in private, refusing to allow the  
28 Director access to confidential information and records upon request pursuant to G.S. ~~7A-~~  
29 ~~544, 7B-302,~~ refusing to allow the director to arrange for an evaluation of the ~~juvenile~~  
30 ~~child~~ by a physician or other expert, or other conduct that makes it impossible for the  
31 director to carry out the duty to investigate.

32 (c) Upon filing of the petition, the court shall schedule a hearing to be held not less  
33 than five days after service of the petition and summons on the respondent. Service of  
34 the petition and summons and notice of hearing shall be made as provided by the Rules of  
35 Civil Procedure on the respondent; the ~~juvenile's child's~~ parent, guardian, custodian, or  
36 caretaker; and any other person determined by the court to be a necessary party. If at the  
37 hearing on the petition the court finds by clear, cogent and convincing evidence that the  
38 respondent, without lawful excuse, has obstructed or interfered with an investigation  
39 required by G.S. ~~7A-544, 7B-302,~~ the court may order the respondent to cease ~~such this~~  
40 obstruction or interference. The burden of proof shall be on the petitioner.

41 (d) If the director has reason to believe that the ~~juvenile child~~ is in need of  
42 immediate protection or assistance, ~~he the director~~ shall so allege in the petition and may  
43 seek an ex parte order from the court. If the court, from the verified petition and any

1 inquiry the court makes of the director, finds probable cause to believe both that the  
2 ~~juvenile child~~ is at risk of immediate harm and that the respondent is obstructing or  
3 interfering with the director's ability to investigate to determine the ~~juvenile's child's~~  
4 condition, the court may enter an ex parte order directing the respondent to cease ~~such~~  
5 this obstruction or interference. The order shall be limited to provisions necessary to  
6 enable the Director to conduct an investigation sufficient to determine whether the  
7 ~~juvenile child~~ is in need of immediate protection or assistance. Within 10 days after the  
8 entry of an ex parte order under this subsection, a hearing shall be held to determine  
9 whether there is good cause for the continuation of the order or the entry of a different  
10 order. An order entered under this subsection shall be served on the respondent along  
11 with a copy of the petition, summons, and notice of hearing.

12 (e) The Director may be required at a hearing under this section to reveal the  
13 identity of any person who made a report of suspected ~~abuse or neglect~~ abuse, neglect, or  
14 dependency as required by G.S. ~~7A-543-7B-301~~.

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

17 **"§ 7A** ~~In all cases in which a petition is filed, the Director of the Department of~~  
18 ~~Social Services shall prepare a report for the court containing a home~~  
19 ~~placement plan and a treatment plan deemed by the Director to be~~  
20 ~~appropriate to the needs of the juvenile child. The report shall be~~  
21 ~~available to the judge immediately following the adjudicatory hearing.~~

22 **"§ 7A** ~~The person making the report shall have five-10 working days, from receipt~~  
23 ~~of the decision of the Director of the Department of Social Services not to~~  
24 ~~petition the court, to notify the prosecutor that he is requesting a review. a~~  
25 ~~review is being requested. The prosecutor shall notify the person making~~  
26 ~~the report and the Director of the time and place for the review and the~~  
27 ~~Director shall immediately transmit to the prosecutor a copy of the~~  
28 ~~investigation report. review. The review shall be pursuant to G.S. 143-~~  
29 ~~576.1(a)(1)c.~~

30 **"§ 7A** ~~The prosecutor shall review the Director's determination that a petition~~  
31 ~~should not be filed within 20 days after the person making the report is~~  
32 ~~notified. The review shall include conferences with the person making the~~  
33 ~~report, the protective services worker, the juvenile, if practicable, and~~  
34 ~~other persons known to have pertinent information about the juvenile or~~  
35 ~~the juvenile's family. the report and recommendations of the Community~~  
36 ~~Child Protection Team made pursuant to G.S. 143-576.1(a)(1)c. At the~~  
37 ~~conclusion of the conferences, the prosecutor may Within five days of~~  
38 ~~receiving the Team's report, the prosecutor shall (i) affirm the decision~~  
39 ~~made by the Director, may Director not to file a petition, (ii) request the~~  
40 ~~appropriate local law enforcement agency to investigate the allegations, or~~  
41 ~~may-iii) direct the Director to file a petition.~~

1 **"§ ~~7A-548. 7B-307.~~ Duty of Director to report evidence of abuse, neglect;**  
2 **investigation by local law enforcement; notification of Department of**  
3 **Health and Human Services and State Bureau of Investigation.**

4 (a) If the Director finds evidence that a ~~juvenile-child~~ may have been abused as  
5 defined by G.S. ~~7A-517(1), 7B-101~~, the Director shall make an immediate oral and  
6 subsequent written report of the findings to the district attorney or the district attorney's  
7 designee and the appropriate local law enforcement agency within 48 hours after receipt  
8 of the report. The local law enforcement agency shall immediately, but no later than 48  
9 hours after receipt of the information, initiate and coordinate a criminal investigation with  
10 the protective services investigation being conducted by the county Department of Social  
11 Services. Upon completion of the investigation, the district attorney shall determine  
12 whether criminal prosecution is appropriate and may request the Director or the  
13 Director's designee to appear before a magistrate.

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

23 If the report received pursuant to G.S. ~~7A-543-7B-301~~ involves abuse or neglect of a  
24 ~~juvenile-child~~ in child care, the Director shall notify the Department of Health and  
25 Human Services within 24 hours or on the next working day of receipt of the report.

26 (a1) If the Director finds evidence that a juvenile has been abused or neglected as  
27 defined by G.S. ~~7A-517-7B-101~~ in a child care facility, the Director shall immediately so  
28 notify the Department of Health and Human Services and, in the case of child sexual  
29 abuse, the State Bureau of Investigation, in such a way as does not violate the law  
30 guaranteeing the confidentiality of the records of the Department of Social Services.

31 (a2) Upon completion of the investigation, the Director shall give the Department  
32 written notification of the results of the investigation required by G.S. ~~7A-544-7B-302~~.  
33 Upon completion of an investigation of child sexual abuse in a child care facility, the  
34 Director shall also make written notification of the results of the investigation to the State  
35 Bureau of Investigation.

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

40 (b) ~~Repealed by Session Laws 1991, (Reg. Sess. 1992), c. 923, s. 4.~~

41 **"§ ~~7A-549. 7B-308.~~ Authority of medical professionals in abuse cases.**

42 (a) Any physician or administrator of a hospital, clinic, or other medical facility to  
43 which a suspected abused ~~juvenile-child~~ is brought for medical diagnosis or treatment

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

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

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

31 (2) In all cases except those described in subdivision (1) above, the director  
32 shall conduct ~~his-the~~ investigation and may initiate ~~juvenile~~  
33 proceedings and take all other steps authorized by the regular provisions  
34 of this Subchapter. If the director decides not to file a petition, the  
35 physician, the administrator or ~~his~~-designee may ask the prosecutor to  
36 review this decision according to the provisions of G.S. ~~7A-546 and~~  
37 ~~G.S. 7A-547-7B-305.~~

38 (c) If, upon hearing, the court determines that the child is found in a county other  
39 than the county of legal residence, in accord with G.S. 153A-257, the child may be  
40 transferred, in accord with G.S. ~~7A-647(2), 7B-903(2),~~ to the custody of the department  
41 of social services in the county of residence.

42 (d) If the court, upon inquiry, determines that the medical treatment rendered was  
43 necessary and appropriate, the cost of that treatment may be charged to the parents,



1 guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of  
2 residence in accordance with G.S. ~~7A-647(3) and 7A-650-7B-903~~ and G.S. 7B-904.

3 (e) Except as otherwise provided, a petition begun under this section shall proceed  
4 in like manner with petitions begun under G.S. ~~7A-544-7B-302~~.

5 (f) The procedures in this section are in addition to, and not in derogation of, the  
6 child abuse and neglect reporting provisions of G.S. ~~7A-543-7B-301~~ and the temporary  
7 custody provisions of G.S. ~~7A-571-7B-500~~. Nothing in this section shall preclude a  
8 physician or administrator and a director of social services from following the procedures  
9 of G.S. ~~7A-543 and 7A-571-7B-301~~ and G.S. ~~7B-500~~ whenever these procedures are  
10 more appropriate to the ~~juvenile's~~ child's circumstances.

11 **"§ ~~7A-501~~ in an investigation.**

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

19 **"§ ~~7A-551-7B-310~~. Privileges not grounds for failing to report or for excluding  
20 evidence.**

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

31 **"§ ~~7A-552-7B-311~~. Central registry.**

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

42 **§§~~7A-w~~ "ARTICLE 45-4.**

43 **"VENUE; PETITION; SUMMONS.**

1 ~~"§ 7A (a) A proceeding in which a juvenile is alleged to be delinquent or~~  
2 ~~undisciplined shall be commenced and adjudicated in the district in which~~  
3 ~~the offense is alleged to have occurred.~~

4 When a proceeding in which a juvenile is alleged to be delinquent or undisciplined is  
5 commenced in a district other than that of the juvenile's residence, the judge shall proceed  
6 to adjudication in that district. After adjudication, these procedures shall be available to  
7 the court:

8 (1) The judge may transfer the proceeding to the court in the district where  
9 the juvenile resides for disposition.

10 (2) Where the proceeding is not transferred under subsection (1), the judge  
11 shall immediately notify the Chief District Judge in the district in which  
12 the juvenile resides. If the Chief District Judge requests a transfer within  
13 five days after receipt of notification, the judge shall transfer the  
14 proceeding.

15 (3) Where the proceeding is not transferred under (1) or (2), the judge, upon  
16 motion of the juvenile, shall transfer the proceeding to the court in the  
17 district where the juvenile resides for disposition. The judge shall advise  
18 the juvenile of the juvenile's right to transfer under this section.

19 (b) A proceeding in which a juvenile child is alleged to be abused, neglected, or  
20 dependent may be commenced in the district in which the juvenile child resides or is  
21 present. When a proceeding is commenced in a district other than that of the juvenile's  
22 child's residence, the judge, in ~~his~~ the judge's discretion or upon motion of the juvenile,  
23 any party, may transfer the proceeding to the court in the district where the juvenile child  
24 resides. A transfer under this subsection may be made at any time.

25 **"§ 7Ai The pleading in a juvenile child abuse, neglect, or dependency action is the**  
26 **petition. The process in a juvenile child abuse, neglect, or dependency**  
27 **action is the summons.**

28 **"§ 7A—The petition shall contain the name, date of birth, address of the juvenile,**  
29 **child, the name and last known address of ~~his~~ the child's parent, guardian,**  
30 **or custodian and shall allege the facts which invoke jurisdiction over the**  
31 **juvenile. Except in cases in which delinquency or undisciplined behavior is**  
32 **alleged, the child. The petition may contain information on more than one**  
33 **juvenile, child, when the juveniles children are from the same home and**  
34 **are before the court for the same reason. In cases of alleged delinquency**  
35 **or undisciplined behavior, the petitions shall be separate.**

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

40 Sufficient copies of the petition shall be prepared so that copies will be available for  
41 each juvenile, for each parent if living separate and apart, for the ~~court counselor or~~  
42 guardian ad litem, social worker, and for any person determined by the court to be a  
43 necessary party.

1 **"§ 7Apetition.**

2 (a) ~~All reports concerning a juvenile alleged to be delinquent or undisciplined~~  
3 ~~shall be referred to the intake counselor for screening. Thereafter, if it is determined by~~  
4 ~~the intake counselor that a petition should be drawn and filed, the petition shall be drawn~~  
5 ~~by the intake counselor or the clerk, signed by the complainant and verified before an~~  
6 ~~official authorized to administer oaths. If the circumstances indicate a need for immediate~~  
7 ~~attachment of jurisdiction and if the intake counselor is out of the county or otherwise~~  
8 ~~unavailable to receive a complaint and to draw a petition when it is needed, the clerk~~  
9 ~~shall assist the complainant in communicating his complaint to the intake counselor by~~  
10 ~~telephone and, with the approval of the intake counselor, shall draw a petition and file it~~  
11 ~~when signed and verified. A copy of the complaint and petition shall be transmitted to the~~  
12 ~~intake counselor. Procedures for receiving delinquency and undisciplined complaints and~~  
13 ~~drawing petitions thereon, consistent with this Article and Article 43, shall be established~~  
14 ~~by administrative order of the chief judge in each judicial district under G.S. 7A-146(3).~~

15 (b)(a) ~~All complaints~~ reports concerning a ~~juvenile~~ child alleged to be abused,  
16 neglected, or dependent shall be referred to the Director of the Department of Social  
17 Services for screening. Thereafter, if it is determined by the Director that a ~~complaint~~  
18 report should be filed as a petition, the petition shall be drawn by the Director, verified  
19 before an official authorized to administer oaths, and filed by the clerk, recording the date  
20 of filing.

21 (e)(b) ~~All complaints, and any decision of the intake counselor or~~ Any decision of the  
22 director of social services not to ~~authorize that a complaint be filed as~~ file a petition shall  
23 be reviewed by the ~~prosecutor, Community Child Protection Team,~~ if review is requested  
24 pursuant to G.S. 7A-535 or G.S. 7A-546. ~~G.S. shall authorize a complaint to be filed as a~~  
25 ~~petition, he shall prepare the complaint to be filed by the clerk as a petition, recording the~~  
26 ~~day of filing.~~

27 (c) If any court orders a child into the custody of the Department of Social  
28 Services in any action other than an action for abuse, neglect, or dependency, the Director  
29 shall file a petition pursuant to the order and all procedures applicable to this section shall  
30 apply.

31 **"§ 7Anoffice is closed.**

32 (a) ~~All complaints which may arise when the office of the clerk of superior court is~~  
33 ~~closed shall be referred to the intake counselor or the Director of Social Services~~  
34 ~~according to the nature of the complaint.~~

35 (b) (a) When the office of the clerk of superior court is closed, a magistrate may be  
36 authorized by the Chief District Judge to draw, verify, and issue accept for filing petitions  
37 as follows:

38 (1) ~~When an intake counselor requests a petition alleging a juvenile to be~~  
39 ~~delinquent or undisciplined, or~~

40 (2)(1) When the Director of the Department of Social Services requests a  
41 petition alleging a juvenile child to be abused, neglected, or dependent,  
42 or

1           ~~(3)~~(2) When the Director of the Department of Social Services requests a  
2           petition alleging the obstruction of or interference with an investigation  
3           required by G.S. ~~7A-544-7B-302~~.

4           ~~(e)~~(b) The authority of the magistrate under subsection ~~(b)~~(a) is limited to emergency  
5           situations when a petition is required in order to obtain a ~~secure or nonsecure~~ custody  
6           order or an order under G.S. ~~7A-544.1-7B-303~~. Any petition ~~issued~~ accepted for filing  
7           under this section shall be delivered to the clerk's office for processing as soon as that  
8           office is open for business.

9           "**~~7Ae~~ An action is commenced by the filing of a petition in the clerk's office when  
10           that office is open, or by the ~~issuance of a juvenile acceptance of a petition~~  
11           by a magistrate when the clerk's office is closed, which ~~issuance~~  
12           acceptance shall constitute filing.**

13           "**~~7B-406~~. Concurrent court proceedings.**

14           During the pendency of an action under this Chapter, a party to the action is estopped  
15           from litigating concurrently the custody, guardianship, placement, or visitation of a child  
16           who is subject of the action, in an action under Chapter 50 of the General Statutes. A  
17           judge, upon notice of the pendency of an action under this Chapter, shall not issue an  
18           order, finding, or decision relating to the custody, guardianship, placement, or visitation  
19           of the child who is subject of the action, under any Chapter 50 action. Upon termination  
20           of the court's jurisdiction under this Chapter, a copy of the order terminating jurisdiction  
21           shall be filed in any pending Chapter 50 action.

22           "**~~7A-564-7B-407~~. Issuance of summons.**

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

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

- 30           (1) Notice of the nature of the proceeding;
- 31           (2) ~~Notice of any right to counsel and information about how to seek the~~  
32           appointment of counsel prior to a hearing; For any parent named as  
33           respondent in a petition alleging child abuse, neglect, or dependency,  
34           the name, address, and phone number of the appointed counsel;
- 35           (3) Notice that, if the court determines at the hearing that the allegations of  
36           the petition are true, the court will conduct a dispositional hearing to  
37           consider the needs of the ~~juvenile child~~ and enter an order designed to  
38           meet those needs and the objectives of the State; and
- 39           (4) Notice that the dispositional order or a subsequent order:
- 40           a. May remove the ~~juvenile child~~ from the custody of the parent,  
41           guardian, ~~or custodian~~ custodian, or caretaker.

- 1 b. May require that the ~~juvenile child~~ receive medical, psychiatric,  
2 psychological, or other treatment and that the ~~parent-parent,~~  
3 ~~guardian, custodian, or caretaker~~ participate in the treatment.
- 4 c. May require the ~~parent-parent, guardian, custodian, or caretaker~~  
5 to undergo psychiatric, psychological, or other treatment or  
6 counseling for the purpose of remedying the behaviors or  
7 conditions that are alleged in the petition or that contributed to  
8 the removal of the ~~juvenile child~~ from the custody of the ~~parent-~~  
9 ~~parent, guardian, custodian, or caretaker~~ or to facilitate placement  
10 of the child with the Parent, guardian, custodian, or caretaker.
- 11 d. May order the parent or other responsible party to pay for  
12 treatment that is ordered for the ~~juvenile or the parent- child.~~
- 13 e. May order the parent, guardian, custodian, or caretaker to pay for  
14 own psychiatric, psychological, or other treatment or counseling  
15 if ordered by the court.
- 16 f. May upon proper notice and a finding based on the criteria set  
17 out in G.S. 7A-289.32, terminate the parental rights of the  
18 respondent parent.

19 (c) The summons shall advise the ~~parent-parent, guardian, custodian, or caretaker~~  
20 that upon service, jurisdiction ~~over the parent~~ is obtained and that failure ~~of the parent~~ to  
21 comply with any order of the court pursuant to G.S. ~~7A-650-7B-1007~~ may cause the court  
22 to issue a show cause order for contempt.

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

25 "**§ 7A—The summons shall be personally served upon the parent, the guardian,**  
26 **custodian, or caretaker, and the ~~juvenile or counsel or guardian ad litem,~~**  
27 **not less than five days prior to the date of the scheduled ~~hearing- hearing~~**  
28 **except for the first nonsecure custody hearing, if applicable. The time for**  
29 **service may be waived in the discretion of the judge.**

30 ~~If Service shall be as authorized by G.S. 1A-1, Rule 4(j), if the parent, guardian, or~~  
31 ~~eustodian-custodian, or caretaker~~ entitled to receive a summons cannot be found by a  
32 diligent effort, the judge may authorize service of the summons and petition by mail or by  
33 publication. The cost of the service by publication shall be advanced by the petitioner and  
34 may be charged as court costs as the judge, in ~~his-~~ the judge's discretion, may direct.

35 If the parent, guardian, ~~or eustodian-custodian,~~ or caretaker is personally served as  
36 herein provided and fails without reasonable cause to appear and to bring the ~~juvenile~~  
37 ~~child~~ before the court, ~~he-~~ this person may be proceeded against as for contempt of court.

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

41 "ARTICLE 46-5.

42 "Temporary Custody, Secure and Nonsecure Custody; Custody Hearings.

43 "**§ 7A-571-7B-500. Taking a juvenile child into temporary custody.**

1 (a) Temporary custody means the taking of physical custody and providing  
2 personal care and supervision until a court order for ~~secure or nonsecure~~ custody can be  
3 obtained. A juvenile-child may be taken into temporary custody ~~under the following~~  
4 ~~circumstances:~~

5 (1) ~~A juvenile may be taken into temporary custody by a law enforcement~~  
6 ~~officer without a court order if grounds exist for the arrest of an adult in~~  
7 ~~identical circumstances under G.S. 15A-401(b).~~

8 (2) ~~A juvenile may be taken into temporary custody without a court order~~  
9 ~~by a law enforcement officer or a court counselor if there are reasonable~~  
10 ~~grounds to believe that the juvenile is an undisciplined juvenile.~~

11 (3) ~~A juvenile may be taken into temporary custody without a court order~~  
12 ~~by a law enforcement officer or a Department of Social Services worker~~  
13 ~~if there are reasonable grounds to believe that the juvenile-child is~~  
14 ~~abused, neglected, or dependent and that the juvenile-child would be~~  
15 ~~injured or could not be taken into custody if it were first necessary to~~  
16 ~~obtain a court order. If a Department of Social Services worker takes a~~  
17 ~~juvenile-child into temporary custody under this ~~subdivision, section,~~~~  
18 ~~the worker may arrange for the placement, care, supervision, and~~  
19 ~~transportation of the juvenile-child.~~

20 (4) ~~A juvenile may be taken into custody without a court order by a law-~~  
21 ~~enforcement officer, by a court counselor, by a member of the Black~~  
22 ~~Mountain Center, Alcohol Rehabilitation Center and Juvenile~~  
23 ~~Evaluation Center Joint Security Force established pursuant to G.S.~~  
24 ~~122C-421, or by personnel of the Division of Youth Services as~~  
25 ~~designated by the Department of Health and Human Services if there are~~  
26 ~~reasonable grounds to believe the juvenile is an absconder from any~~  
27 ~~State training school or approved detention facility.~~

28 (b) ~~A law enforcement officer may take physical custody of a juvenile who is 16~~  
29 ~~or 17 years of age without a court order, at the request of the juvenile's parent, guardian,~~  
30 ~~or custodian if there are reasonable grounds to believe the juvenile is beyond the~~  
31 ~~disciplinary control of the juvenile's parent, guardian, or custodian and has been absent~~  
32 ~~from the home without permission for 48 consecutive hours.~~

33 **"§ 7A-572. 7B-501. Duties of person taking juvenile-child into temporary custody.**

34 (a) A person who takes a juvenile-child into custody without a court order under  
35 ~~G.S. 7A-571(a)(1), (a)(2), or (a)(3)~~ G.S. (1) Notify the juvenile's-child's parent, guardian,  
36 ~~or custodian~~ custodian, or caretaker that the juvenile-child has been taken into temporary  
37 custody and advise the parent, guardian, ~~or custodian~~ custodian, or caretaker of the right  
38 to be present with the juvenile-child until a determination is made as to the need for  
39 ~~secure or nonsecure~~ custody. Failure to notify the ~~parent~~ parent, guardian, custodian, or  
40 caretaker that the juvenile-child is in custody shall not be grounds for release of the  
41 juvenile; child;

42 (2) Release the juvenile-child to the juvenile's-child's parent, guardian, ~~or~~  
43 ~~custodian~~ custodian, or caretaker if the person having the juvenile-child

1 in temporary custody decides that continued custody is unnecessary. In  
2 the case of a juvenile unlawfully absent from school, if continued  
3 custody is unnecessary, the person having temporary custody may  
4 deliver the juvenile to the juvenile's school or, if the local city or county  
5 government and the local school board adopt such a policy, to a place in  
6 the local school administrative unit.

7 (3) If the juvenile is not released under subsection (b) of this section, the  
8 person having temporary custody shall proceed as follows:

9 a. In the case of a juvenile alleged to be delinquent or  
10 undisciplined, the person having temporary custody shall request  
11 a petition be drawn pursuant to G.S. 7A-561 or if the clerk's  
12 office is closed, the magistrate pursuant to G.S. 7A-562. Once  
13 the petition has been drawn and verified, the person shall  
14 communicate with the intake counselor who shall consider  
15 prehearing diversion. If the decision is made to file a petition, the  
16 intake counselor shall contact the judge or person delegated  
17 authority pursuant to G.S. 7A-573 if other than the intake  
18 counselor for a determination of the need for continued custody.

19 b.

20 (3) In the case of a juvenile alleged to be abused, neglected, or dependent,  
21 the person having temporary custody shall communicate Communicate  
22 with the Director of the Department of Social Services who shall  
23 consider prehearing diversion. Services. If the decision is made to file a  
24 petition, petition and seek nonsecure custody, the director shall contact  
25 the judge or person delegated authority pursuant to G.S. 7A-573-7B-502  
26 for a determination of the need for continued custody.

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

30 a. A petition or motion for review has been filed by an intake  
31 counselor or by the Director of the Department of Social  
32 Services, and

33 b. An order for secure or nonsecure custody has been entered by a  
34 judge.

35 (b) ~~A person who takes a juvenile into custody under G.S. 7A-571(a)(4) shall,~~  
36 ~~after contacting a judge and receiving an order for secure custody, transport the juvenile~~  
37 ~~to the nearest approved facility providing secure custody. The person shall then contact~~  
38 ~~the administrator of the training school or detention facility from which the juvenile~~  
39 ~~absconded, who shall be responsible for returning the juvenile to that facility.~~

40 (c) ~~A person who takes a juvenile into custody under G.S. 7A-571(b) shall return~~  
41 ~~the juvenile to the custody of the juvenile's parent, guardian, or custodian or notify the~~  
42 ~~parent, guardian, or custodian that the juvenile has been taken into custody unless there~~  
43 ~~are reasonable grounds to believe the juvenile is abused, neglected, or dependent and~~

1 would be injured if returned to the custody of the parent, guardian, or custodian, in which  
2 case the person shall proceed pursuant to G.S. 7A-571(a)(3) and subsection (a) of this  
3 section.

4 "§ 7Aedelegation.

5 In the case of any juvenile child alleged to be within the jurisdiction of the court,  
6 when the judge finds it necessary to place the juvenile child in custody, ~~he the judge~~ may  
7 order that the juvenile child be placed in ~~secure or nonsecure~~ custody pursuant to criteria  
8 set out in G.S. ~~7A-574. 7B-503.~~

9 Any district court judge ~~shall have the authority to may~~ issue ~~secure and nonsecure~~  
10 custody orders pursuant to G.S. ~~7A-574. 7B-503.~~ The chief district judge may delegate  
11 the court's authority to ~~persons other than district court judges the magistrate~~ by  
12 administrative order which shall be filed in the office of the clerk of superior court. The  
13 administrative order ~~shall may~~ specify which ~~persons magistrate~~ shall be contacted for  
14 approval of a ~~secure or nonsecure~~ custody order pursuant to G.S. ~~7A-574 G.S. 7B-503.~~  
15 ~~and may include intake counselors and other members of the chief court counselor's staff.~~  
16 The authority to issue a ~~nonsecure or secure~~ custody order is limited to a judge or the  
17 chief court counselor or his counseling staff when a juvenile is alleged to have committed  
18 a delinquent or undisciplined act.

19 "**§ 7Aa (a) When a request is made for nonsecure custody, the judge shall first**  
20 **consider release of the juvenile child to his the child's parent, relative,**  
21 **guardian, eustodian-custodian, caretaker, or other responsible adult. adult**  
22 **if it is safe to do so. An order for nonsecure custody shall be made only**  
23 **when there is a reasonable factual basis to believe the matters alleged in**  
24 **the petition are true, and**

- 25 (1) The juvenile child has been abandoned; or  
26 (2) The juvenile child has suffered physical injury or sexual abuse; or  
27 (3) The juvenile child is exposed to a substantial risk of physical injury or  
28 sexual abuse because the parent, guardian, ~~or eustodian-custodian, or~~  
29 caretaker has created the conditions likely to cause injury or abuse or  
30 has failed to provide, or is unable to provide, adequate supervision or  
31 protection; or  
32 (4) The juvenile child is in need of medical treatment to cure, alleviate, or  
33 prevent suffering serious physical harm which may result in death,  
34 disfigurement, or substantial impairment of bodily functions, and ~~his the~~  
35 child's parent, guardian, or eustodian-custodian, or caretaker is unwilling  
36 or unable to provide or consent to the medical treatment; or  
37 (5) The parent, ~~guardian or eustodian-guardian, custodian, or caretaker~~  
38 consents to the nonsecure custody order;  
39 (6) The juvenile child is a runaway and consents to nonsecure ~~eustody; or~~  
40 custody.  
41 (7) ~~The juvenile meets one or more of the criteria for secure custody but~~  
42 ~~the court finds it in the best interest of the juvenile that the juvenile be~~  
43 ~~placed in a nonsecure placement.~~



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

5 (b) ~~When a request is made for secure custody, the judge may order secure custody~~  
6 ~~only where he finds there is a reasonable factual basis to believe that the juvenile actually~~  
7 ~~committed the offense as alleged in the petition, and~~

8 (1) ~~That the juvenile is presently charged with a felony, and has~~  
9 ~~demonstrated that he is a danger to property or persons; or~~

10 (1.1) ~~The juvenile is presently charged with a misdemeanor at least one~~  
11 ~~element of which is assault on a person; or~~

12 (2) ~~That the juvenile has willfully failed to appear on a pending delinquency~~  
13 ~~charge or on charges of violation of probation or conditional release,~~  
14 ~~providing the juvenile was properly notified; or~~

15 (3) ~~That a delinquency charge is pending against the juvenile and there is a~~  
16 ~~reasonable cause to believe the juvenile will not appear in court; or~~

17 (4) ~~That the juvenile is an absconder from any State training school or~~  
18 ~~detention facility in this or another state; or~~

19 (5) ~~That there is reasonable cause to believe the juvenile should be detained~~  
20 ~~for his own protection because the juvenile has recently suffered self-~~  
21 ~~inflicted physical injury or recently attempted to do so; in such case, the~~  
22 ~~juvenile must have been refused admission by one appropriate hospital~~  
23 ~~and the period of secure custody is limited to 24 hours to determine the~~  
24 ~~need for inpatient hospitalization; if such a juvenile is placed in secure~~  
25 ~~custody, he shall receive continuous supervision while in secure custody~~  
26 ~~and a physician shall be notified immediately; or~~

27 (6) ~~That the juvenile is alleged to be undisciplined by virtue of his being a~~  
28 ~~runaway and is found to be inappropriate for nonsecure custody~~  
29 ~~placement or because he refuses nonsecure custody and the court finds~~  
30 ~~that the juvenile needs secure custody for up to 24 hours, excluding~~  
31 ~~Saturdays, Sundays, and State holidays, or where circumstances require~~  
32 ~~for a period not to exceed 72 hours to evaluate the juvenile's need for~~  
33 ~~medical or psychiatric treatment or to facilitate reunion with his parents;~~  
34 ~~or~~

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

40 (c) ~~When a juvenile has been adjudicated delinquent, the judge may order secure~~  
41 ~~custody pending the dispositional hearing or pending placement of a delinquent juvenile~~  
42 ~~pursuant to G.S. 7A-649. The judge may also order secure custody for a juvenile who is~~

1 ~~alleged to have violated the conditions of his probation or conditional release only if the~~  
2 ~~juvenile is alleged to have committed acts that damage property or injure persons.~~

3 (d) ~~If the criteria for secure custody as set out in subsections (b) or (c) are met, the~~  
4 ~~judge may enter an order directing an officer or other authorized person to assume~~  
5 ~~eustody of the juvenile and to take the juvenile to the place as is designated in the order.~~

6 **"§ 7A-575. 7B-504. Order for secure or nonsecure custody.**

7 The custody order shall be in writing and shall direct a law-enforcement officer or  
8 other authorized person to assume custody of the ~~juvenile~~child and to make due return  
9 on the order. A copy of the order shall be given to the ~~juvenile's~~child's parent, guardian,  
10 ~~or eustodian~~custodian, or caretaker by the official executing the order. ~~If the order is for~~  
11 ~~secure eustody, copies of the petition and custody order shall accompany the juvenile to~~  
12 ~~the detention facility or holdover facility of the jail. A DCI message, which is a message~~  
13 ~~of the Division of Criminal Information, State Bureau of Investigation, stating that a~~  
14 ~~juvenile petition and secure custody order relating to a specified juvenile is on file in a~~  
15 ~~particular county shall be authority to detain the juvenile in secure custody until a copy of~~  
16 ~~the juvenile petition and secure custody order can be forwarded to the juvenile detention~~  
17 ~~facility. In such case, however, the copies of the juvenile petition and secure custody~~  
18 ~~order shall be transmitted to the juvenile detention facility no later than 72 hours after the~~  
19 ~~initial detention of the juvenile.~~

20 An officer receiving an order for custody which is complete and regular on its face  
21 may execute it in accordance with its ~~terms and terms~~, need not inquire into its regularity  
22 or continued validity, ~~nor does he~~ and shall not incur criminal or civil liability for its due  
23 service.

24 **"§ 7A-576. 7B-505. Place of secure or nonsecure custody.**

25 (a) A ~~juvenile~~child meeting the criteria set out in G.S. ~~7A-574, 7B-503,~~  
26 subsection (a), may be placed in nonsecure custody with the Department of Social  
27 Services or a person designated in the order for temporary residential placement in:

- 28 (1) A licensed foster home or a home otherwise authorized by law to  
29 provide ~~such~~this care or  
30 (2) A facility operated by the Department of Social Services or  
31 (3) Any other home or ~~facility~~facility, including a relative's home approved  
32 by the court and designated in the order.

33 In placing a ~~juvenile~~child in nonsecure custody under this ~~section and under G.S. 7A-~~  
34 ~~629 and G.S. 7A-651, section,~~ the court shall first consider whether a relative of the  
35 ~~juvenile~~child is willing and able to provide proper care and supervision of the ~~juvenile~~  
36 child in a safe home. If the court finds that the relative is willing and able to provide  
37 proper care and supervision in a safe home, then the court shall order placement of the  
38 ~~juvenile~~child with the ~~relative.~~relative unless the court finds that the placement is  
39 contrary to the best interests of the child. Prior to placement Placement of a ~~juvenile~~child  
40 with a relative outside of this State, ~~the placement~~State must be in accordance with the  
41 Interstate Compact on the Placement of Children.

42 (b) A ~~juvenile~~ meeting the criteria set out in G.S. ~~7A-574(b)~~ may be temporarily  
43 ~~detained in an approved county detention home or a regional detention facility which~~

1 shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be  
2 unlawful for a county or any unit of government to operate a juvenile detention home  
3 unless the facility meets the standards promulgated by the Department of Health and  
4 Human Services.

5 ~~(e)~~, (d) Expired.

6 "~~§ 7A-577.~~ **7B-506. Hearing to determine need for continued secure or nonsecure**  
7 **custody.**

8 (a) No juvenile shall be held under a secure custody order for more than five  
9 calendar days or under a nonsecure custody order for more than seven calendar days,  
10 without a hearing on the merits or a hearing to determine the need for continued custody.  
11 A hearing on secure custody conducted under this subsection may not be continued or  
12 waived. A hearing on nonsecure custody conducted under this subsection may be  
13 continued for up to ~~10 business~~ seven calendar days with the consent of the juvenile's  
14 child's parent, guardian, or custodian, custodian, or caretaker, and, if appointed, the  
15 juvenile's child's guardian ad litem. In addition, the court may require the consent of  
16 additional parties or may schedule the hearing on nonsecure custody despite a party's  
17 consent to a continuance. In every case in which an order has been entered by an official  
18 exercising authority delegated pursuant to G.S. ~~7A-573, 7B-502,~~ a hearing to determine  
19 the need for continued custody shall be conducted on the day of the next regularly  
20 scheduled session of district court in the city or county where the order was entered if  
21 ~~such~~ this session precedes the expiration of the applicable time period set forth in this  
22 subsection: Provided, that if ~~such~~ this session does not precede the expiration of the time  
23 period, the hearing may be conducted at another regularly scheduled session of district  
24 court in the district where the order was entered.

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

28 (e) (b) At a hearing to determine the need for continued custody, the judge shall  
29 shall:

30 (1) Advise the parties of their rights;

31 (2) Explain the nature and purpose of the hearing;

32 (3) Review the adequacy of notice and service of process;

33 (4) Attempt to ascertain the identity and whereabouts of any parent,  
34 guardian, custodian, or caretaker of the child who is not present,  
35 whether that person has been served, and what steps need to be taken to  
36 identify, locate, or serve this person;

37 (5) Receive testimony aimed at determining:

38 a. What condition is alleged in the petition;

39 b. What condition or risk precipitated the nonsecure custody order,  
40 including the result's of the petitioner's risk assessment;

41 c. Whether a condition or risk justifying nonsecure custody under  
42 G.S. exists; and

1           d.       What efforts that the petitioner has made to prevent or eliminate  
2                   the need for nonsecure custody or why efforts were not  
3                   necessary.

4 The judge shall receive testimony and shall allow the juvenile, child, and the juvenile's  
5 child's parent, guardian, or custodian-custodian, or caretaker an opportunity to introduce  
6 evidence, to be heard in their own behalf, and to examine witnesses. ~~The State shall bear~~  
7 ~~the burden at every stage of the proceedings to provide clear and convincing evidence~~  
8 ~~that restraints on the juvenile's liberty are necessary and that no less intrusive alternative~~  
9 ~~will suffice.~~ The judge shall not be bound by the usual rules of evidence at ~~such~~ these  
10 hearings.

11       ~~(d)~~ (c) The judge shall be bound by criteria set forth in G.S. ~~7A-574-7B-503~~ in  
12 determining whether continued custody is warranted.

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

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

17                   ~~or~~

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

19           (3)     ~~Release conditioned on restrictions on activities, associations, residence~~  
20                   ~~or travel if reasonably related to securing the juvenile's presence in~~  
21                   ~~court; or~~

22           (4)     ~~Any other conditions reasonably related to securing the juvenile's~~  
23                   ~~presence in court.~~

24       ~~(f)~~(d) If the judge determines that the juvenile-child meets the criteria in G.S. ~~7A-~~  
25 ~~574-7B-503~~ and should continue in nonsecure custody, the judge shall issue an order to  
26 that effect. The order shall be in writing with appropriate findings of fact. The findings of  
27 fact shall include ~~the evidence relied upon in reaching the decision and the purposes~~  
28 ~~which continued custody is to achieve.~~ the following:

29           (1)     Placement options for the child, including possible placements with  
30                   relatives and efforts to keep siblings together;

31           (2)     Efforts needed to ensure that a school-aged child's school placement and  
32                   attendance are not disrupted;

33           (3)     Parental visitation;

34           (4)     Sibling visitation;

35           (5)     Service needs and referrals;

36           (6)     Financial support for the child; and

37           (7)     The child's immediate needs, such as an immediate need for medical  
38                   treatment or evaluation.

39 Any order authorizing the continued nonsecure custody of a child shall also comply with  
40 the requirements of G.S. ~~(g)~~(e) Pending a hearing on the merits, further hearings to  
41 determine the need for continued secure custody shall be held at intervals of no more than  
42 seven calendar days. A subsequent hearing on continued nonsecure custody shall be held  
43 within seven ~~business days, excluding Saturdays, Sundays, and legal holidays,~~ calendar

1 days of the initial hearing required in subsection (a) of this section and hearings thereafter  
2 shall be held at intervals of no more than 30 calendar days.

3 ~~(g1)~~ (f) Hearings conducted under subsection ~~(g)~~(e) of this section may be waived  
4 as follows:

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

7 (2) ~~In only in the case of a juvenile child alleged to be abused, neglected, or~~  
8 ~~dependent, only with the consent of the juvenile's child's parent,~~  
9 ~~guardian, or custodian, custodian, or caretaker, and, if appointed, the~~  
10 ~~juvenile's child's guardian ad litem.~~

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

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

28 ~~(i)~~ (g) At each hearing to determine the need for continued nonsecure custody, the  
29 court shall:

30 (1) Inquire as to the identity and location of any missing parent. The court  
31 shall include findings as to the efforts undertaken to locate the missing  
32 parent and to serve that parent. The order may provide for specific  
33 efforts aimed at determining the identity and location of any missing  
34 parent;

35 (2) Inquire as to whether a relative of the ~~juvenile child~~ is willing and able  
36 to provide proper care and supervision of the ~~juvenile child~~ in a safe  
37 home. If the court finds that the relative is willing and able to provide  
38 proper care and supervision in a safe home, then the court shall order  
39 temporary placement of the ~~juvenile child~~ with the ~~relative relative~~  
40 unless the courts makes specific findings that the placement is contrary  
41 to the best interests of the child. Prior to placement Placement of a  
42 juvenile child with a relative outside of this State, the placement State

1 must be in accordance with the Interstate Compact on the Placement of  
2 Children; and

- 3 (3) Inquire as to whether there are other ~~juveniles-children~~ remaining in the  
4 home from which the ~~juvenile-child~~ was removed and, if there are,  
5 inquire as to the specific findings of the investigation conducted under  
6 G.S. ~~7A-544-7B-302~~ and any actions taken or services provided by the  
7 Director for the protection of the other ~~juveniles-children~~.

8 **"§ 7B-507. Reasonable efforts.**

9 (a) In determining reasonable efforts to be made with respect to a child who is  
10 placed in foster care and in making these reasonable efforts, the child's health and safety  
11 shall be the paramount concern. Reasonable efforts to preserve or reunify families may  
12 also be made concurrently with efforts to place the child for adoption, with a legal  
13 guardian, or in another planned and permanent placement.

14 (b) An order placing or continuing the placement of a child in the custody or  
15 placement responsibility of a county department of social services, whether an order for  
16 continued nonsecure custody, a dispositional order, or a review order:

17 (1) Shall contain a finding that the child's continuation in or return to the  
18 child's own home would be contrary to the child's best interest.

19 (2) Shall contain findings as to whether a county department of social  
20 services has made reasonable efforts to prevent or eliminate the need for  
21 placement of the child, unless the court has previously determined under  
22 subsection (b) of this section that these efforts are not required or shall  
23 cease.

24 (3) Shall contain findings as to whether a county department of social  
25 services shall continue to make reasonable efforts to prevent or  
26 eliminate the need for placement of the child, unless the court has  
27 previously determined or determines under subsection (b) of this section  
28 that these efforts are not required or shall cease.

29 (4) Shall specify that the child's placement and care are the responsibility of  
30 the county department of social services and that the agency is to  
31 provide or arrange for the foster care or other placement of the child.

32 (5) May provide for services or other efforts aimed at returning the child to  
33 a safe home or at achieving another permanent plan for the child.

34 A finding that reasonable efforts have not been made by a county department of social  
35 services shall not preclude the entry of an order authorizing the child's placement when  
36 the court finds that placement is necessary for the protection of the child. Where efforts  
37 to prevent the need for the child's placement were precluded by an immediate threat of  
38 harm to the child, the court may find that the placement of the child in the absence of  
39 these efforts was reasonable.

40 (c) In any order placing a child in the custody or placement responsibility of a  
41 county department of social services, whether an order for continued nonsecure custody,  
42 a dispositional order, or a review order, the court may direct that reasonable efforts to

1 eliminate the need for placement of the child shall not be required or shall cease if the  
2 court makes written findings of fact that:

3 (1) These efforts clearly would be futile or would be inconsistent with the  
4 child's health, safety, and need for a safe, permanent home within a  
5 reasonable period of time.

6 (2) A court of competent jurisdiction has determined that the parent has  
7 subjected the child to aggravated circumstances as defined in G.S. 7B-  
8 101.

9 (3) A court of competent jurisdiction has terminated involuntarily the  
10 parental rights of the parent to another child of the parent.

11 (4) A court of competent jurisdiction has determined that the parent has  
12 committed murder or voluntary manslaughter of another child of the  
13 parent; has aided, abetted, attempted, conspired, or solicited to commit  
14 murder or voluntary manslaughter of the child or another child of the  
15 parent; or has committed a felony assault resulting in serious bodily  
16 injury to the child or another child of the parent.

17 (d) At any hearing at which the court finds that reasonable efforts to eliminate the  
18 need for the child's placement are not required or shall cease, the court shall direct that a  
19 permanency planning hearing as required by G.S. 7B-1011 be held within 30 calendar  
20 days after the date of the hearing and, if practicable, shall set the date and time for the  
21 permanency planning hearing.

22 (e) In determining reasonable efforts to be made with respect to a child and in  
23 making these reasonable efforts, the child's health and safety shall be the paramount  
24 concern. Reasonable efforts to preserve or reunify families may be made concurrently  
25 with efforts to plan for the child's adoption, to place the child with a legal guardian, or to  
26 place the child in another permanent arrangement.

27 **"§ 7A. All communications, notices, orders, authorizations, and requests authorized**  
28 **or required by G.S. 7A-572, 7A-574, and 7A-575-7B-501, G.S. 7B-503, and**  
29 **G.S. 7B-504 may be made by telephone when other means of**  
30 **communication are impractical. All written orders pursuant to telephonic**  
31 **communication shall bear the name and the title of the person**  
32 **communicating by telephone, the signature and the title of the official**  
33 **entering the order, and the hour and the date of the authorization.**

34 **§§7Aa**

35 "ARTICLE 47-6.

36 "Basic Rights.

37 **"§ 7A (a) A juvenile alleged to be within the jurisdiction of the court has the right to**  
38 **be represented by counsel in all proceedings. In any proceeding in which**  
39 **delinquency is alleged, the judge shall appoint counsel unless counsel is**  
40 **retained for the juvenile.**

41 (b) All juveniles shall be conclusively presumed to be indigent, and it shall not be  
42 necessary for the court to receive from any juvenile an affidavit of indigency.

43 **"§ 7A-585. 7B-600. Appointment of guardian.**

1 In any case when no parent appears in a hearing with the ~~juvenile child~~ or when the  
2 judge finds it would be in the best interest of the ~~juvenile child~~, the judge may appoint a  
3 guardian of the person for the ~~juvenile child~~. The guardian shall operate under the  
4 supervision of the court with or without bond and shall file only ~~such~~ those reports as the  
5 court shall require. The guardian shall have the care, custody, and control of the ~~juvenile~~  
6 ~~child~~ or may arrange a suitable placement for the ~~juvenile child~~ and may represent the  
7 ~~juvenile child~~ in legal actions before any court. The guardian may consent to certain  
8 actions on the part of the ~~juvenile child~~ in place of the parent including (i) marriage, (ii)  
9 enlisting in the armed forces, and (iii) enrollment in school. The guardian may also  
10 consent to any necessary remedial, psychological, medical, or surgical treatment for the  
11 ~~juvenile child~~. The authority of the guardian shall continue until the guardianship is  
12 terminated by court order, until the ~~juvenile child~~ is emancipated pursuant to Article 56  
13 of this Chapter, or until the ~~juvenile child~~ reaches the age of majority.

14 **"§ 7A-586. 7B-601. Appointment and duties of guardian ad litem.**

15 (a) When in a petition a ~~juvenile child~~ is alleged to be abused or neglected, the  
16 judge shall appoint a guardian ad litem to represent the ~~juvenile child~~. When a ~~juvenile~~  
17 ~~child~~ is alleged to be dependent, the judge may appoint a guardian ad litem to represent  
18 the ~~juvenile~~. ~~The child.~~ The child is a party and the guardian ad litem and attorney  
19 advocate have standing to represent the juvenile child in all actions under this Subchapter  
20 where they have been appointed. The appointment shall be made pursuant to the program  
21 established by Article 39 of this Chapter Chapter 7A of the General Statutes unless  
22 representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. The  
23 appointment shall terminate at the end of two years. Upon motion of any party including  
24 the guardian ad litem, or upon the judge's own motion, the guardian ad litem may be  
25 reappointed upon a showing of good cause. In every case where a nonattorney is  
26 appointed as a guardian ad litem, an attorney shall be appointed in the case in order to  
27 assure protection of the child's legal rights through the dispositional phase of the  
28 proceedings, and after disposition when necessary to further the best interests of the  
29 child. rights. The duties of the guardian ad litem program shall be to make an  
30 investigation to determine the facts, the needs of the ~~juvenile child~~, and the available  
31 resources within the family and community to meet those needs; to facilitate, when  
32 appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at  
33 adjudication; to explore options with the judge at the dispositional hearing; to conduct  
34 follow-up investigations to ensure that the orders of the court are being properly executed  
35 and to report to the court when the needs of the child are not being met; and to protect  
36 and promote the best interest of the juvenile child until formally relieved of the  
37 responsibility by the judge.

38 (b) ~~The judge may order the Department of Social Services or the guardian ad~~  
39 ~~litem to conduct follow-up investigations to insure that the orders of the court are being~~  
40 ~~properly executed and to report to the court when the needs of the juvenile are not being~~  
41 ~~met.~~ The judge may also authorize the guardian ad litem to accompany the ~~juvenile child~~  
42 to court in any criminal action wherein ~~he~~ the child may be called on to testify in a matter  
43 relating to abuse.



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

9 **"§ 7Aa In cases where the juvenile petition alleges that a juvenile-child is abused,**  
10 **neglected or dependent, the parent has the right to counsel and to**  
11 **appointed counsel in cases of indigency unless the parent waives the right.**  
12 **The court shall appoint counsel immediately upon the receipt of the**  
13 **petition for all parents whose whereabouts are known. All parents shall**  
14 **be conclusively presumed to be indigent for the purposes of appointed**  
15 **counsel for the first nonsecure hearing or conference, whichever occurs**  
16 **first. Following the first nonsecure hearing or conference, the parent shall**  
17 **be screened and if the parent is indigent, then the appointed counsel shall**  
18 **continue to provide representation throughout the remainder of the**  
19 **proceeding unless the parent waives counsel or ceases to be indigent. If**  
20 **the parent is determined not be indigent after the first hearing or**  
21 **conference, the parent may be ordered to reimburse the state for the cost**  
22 **of counsel pursuant to the provisions of G.S. 7B-603. In no case may the**  
23 **judge appoint a county attorney, prosecutor or public defender.**

24 **"§ 7Aoguardian ad litem.**

25 An attorney or guardian ad litem appointed pursuant to G.S. ~~7A-584, 7A-586 or 7A-~~  
26 ~~587-7B-601~~ and G.S. 7B-602 of this Article, pursuant to any other provision of the  
27 ~~Juvenile Code, Code on the Abuse, Dependency, or Neglect of Children,~~ or pursuant to  
28 G.S. 7A-289.23 shall be paid a reasonable fee fixed by the court in the same manner as  
29 fees for attorneys appointed in cases of indigency or by direct engagement for specialized  
30 guardian ad litem services through the Administrative Office of the Courts. The judge  
31 may require payment of the attorney or guardian ad litem fee from a person other than the  
32 ~~juvenile-child~~ as provided in G.S. 7A-450.1, 7A-450.2 and 7A-450.3. In no event shall  
33 the parent or guardian be required to pay the fees for an appointed attorney or guardian ad  
34 litem in an abuse, neglect, or dependency proceeding unless the ~~juvenile-child~~ has been  
35 adjudicated to be abused, neglected, or dependent, or, in a proceeding to terminate  
36 parental rights, unless the parent's rights have been terminated. A person who does not  
37 comply with the court's order of payment may be punished for contempt as provided in  
38 G.S. 5A-21.

39 **§§7Ae**

40 **ARTICLE 48.**

41 ~~Law-Enforcement Procedures in Delinquency Proceedings.~~

42 **§ 7A-594. Role of the law-enforcement officer.**

1 A law enforcement officer, when he takes a juvenile into temporary custody, should  
2 select the least restrictive course of action appropriate to the situation and needs of the  
3 juvenile from the following:

- 4 (1) To divert the juvenile from the court by
  - 5 a. Release;
  - 6 b. Counsel and release;
  - 7 c. Release to parents;
  - 8 d. Referral to community resources;

9 (2) To seek a petition;

10 (3) To seek a petition and request a custody order.

11 **§7Aâ (a) Any juvenile in custody must be advised prior to questioning:**

12 (1) That he has a right to remain silent; and

13 (2) That any statement he does make can be and may be used against him;  
14 and

15 (3) That he has a right to have a parent, guardian or custodian present  
16 during questioning; and

17 (4) That he has a right to consult with an attorney and that one will be  
18 appointed for him if he is not represented and wants representation.

19 (b) When the juvenile is less than 14 years of age, no in custody admission or  
20 confession resulting from interrogation may be admitted into evidence unless the  
21 confession or admission was made in the presence of the juvenile's parent, guardian,  
22 custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as  
23 well as the juvenile must be advised of the juvenile's rights as set out in subsection (a);  
24 however, a parent, guardian, or custodian may not waive any right on behalf of the  
25 juvenile.

26 (c) If the juvenile indicates in any manner and at any stage of questioning pursuant  
27 to this section that he does not wish to be questioned further, the officer shall cease  
28 questioning.

29 (d) Before admitting any statement resulting from custodial interrogation into  
30 evidence, the judge must find that the juvenile knowingly, willingly, and understandingly  
31 waived his rights.

32 **§7Awwhere juvenile alleged to be delinquent.**

33 Nontestimonial identification procedures shall not be conducted on any juvenile  
34 without a court order issued pursuant to this Article unless the juvenile has been  
35 transferred to superior court for trial as an adult in which case procedures applicable to  
36 adults as set out in Articles 14 and 23 of Chapter 15A shall apply. A nontestimonial  
37 identification order authorized by this Article may be issued by any judge of the district  
38 court or of the superior court upon request of a prosecutor. As used in this Article,  
39 "nontestimonial identification" means identification by fingerprints, palm prints,  
40 footprints, measurements, blood specimens, urine specimens, saliva samples, hair  
41 samples, or other reasonable physical examination, handwriting exemplars, voice  
42 samples, photographs, and lineups or similar identification procedures requiring the  
43 presence of a juvenile.

1 ~~§ 7A order.~~

2 A request for a nontestimonial identification order may be made prior to taking a  
3 juvenile into custody or after custody and prior to the adjudicatory hearing.

4 ~~§ 7A-598. Grounds for order.~~

5 An order may issue only on affidavit or affidavits sworn to before the judge and  
6 establishing the following grounds for the order:

- 7 (1) That there is probable cause to believe that an offense has been  
8 committed which if committed by an adult would be a felony offense;  
9 and  
10 (2) That there are reasonable grounds to suspect that the juvenile named or  
11 described in the affidavit committed the offense; and  
12 (3) That the results of specific nontestimonial identification procedures will  
13 be of material aid in determining whether the juvenile named in the  
14 affidavit committed the offense.

15 ~~§ 7A. Upon a showing that the grounds specified in G.S. 7A-598 exist, the judge may  
16 issue an order following the same procedure as in the case of adults under  
17 G.S. 15A-274, 15A-275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280,  
18 and 15A-282.~~

19 ~~§ 7A-600. Nontestimonial identification order at request of juvenile.~~

20 A juvenile in custody for or charged with an offense which if committed by an adult  
21 would be a felony offense may request that nontestimonial identification procedures be  
22 conducted upon himself. If it appears that the results of specific nontestimonial  
23 identification procedures will be of material aid to the juvenile's defense, the judge to  
24 whom the request was directed must order the State to conduct the identification  
25 procedures.

26 ~~§ 7A identification procedures.~~

27 The results of any nontestimonial identification procedures shall be retained or  
28 disposed of as follows:

- 29 (1) If a petition is not filed against a juvenile who has been the subject of  
30 nontestimonial identification procedures, all records of the evidence  
31 shall be destroyed.  
32 (2) If in the district court or superior court pursuant to a transfer a juvenile  
33 is found not guilty, all records resulting from a nontestimonial order  
34 shall be destroyed. Further, in the case of a juvenile who is under 13  
35 years of age and who is adjudicated to have committed a delinquent act,  
36 which would be less than a felony had the juvenile been an adult, all  
37 records shall be destroyed.  
38 (3) If a juvenile 13 years of age or older is found to have committed a  
39 delinquent act that would be a felony if committed by an adult, all  
40 records resulting from a nontestimonial order may be retained in the  
41 court file. Special precautions shall be taken to ensure that these records  
42 will be maintained in such a manner and under such safeguards as to

1 ~~limit their use to inspection for comparison purposes by law-~~  
2 ~~enforcement officers only in the investigation of a crime.~~

3 (4) ~~If the juvenile is transferred to superior court, all records resulting from~~  
4 ~~nontestimonial identification procedures shall be processed as in the~~  
5 ~~case of an adult.~~

6 (5) ~~Any evidence seized pursuant to a nontestimonial order shall be retained~~  
7 ~~by law enforcement officers until further order is entered by the court.~~

8 (6) ~~Destruction of nontestimonial identification records pursuant to this~~  
9 ~~section shall be performed by the law enforcement agency having~~  
10 ~~possession of such records. Following destruction, the law enforcement~~  
11 ~~agency shall make written certification to the court of the destruction.~~

12 ~~§ 7A—Any person who willfully violates provisions of this Article which prohibit~~  
13 ~~conducting nontestimonial identification procedures without an order~~  
14 ~~issued by a judge shall be guilty of a Class 1 misdemeanor.~~

15 ~~§ 7A-603. Fingerprinting and photographing delinquent juveniles.~~

16 (a) ~~A juvenile shall be fingerprinted and photographed by a law enforcement~~  
17 ~~officer or agency upon adjudication of the juvenile as a delinquent pursuant to G.S. 7A-~~  
18 ~~637 if the juvenile was 10 years of age or older at the time the juvenile allegedly~~  
19 ~~committed an offense that would be a Class A, B, C, D, or E felony if committed by an~~  
20 ~~adult. Upon adjudication, the court shall order the juvenile be fingerprinted and~~  
21 ~~photographed in a proper format for transfer to the State Bureau of Investigation.~~

22 (b) ~~Fingerprints obtained pursuant to this section shall be transferred to the State~~  
23 ~~Bureau of Investigation in a format approved by the State Bureau of Investigation and~~  
24 ~~placed in the Automated Fingerprint Identification System (AFIS) to be used for all~~  
25 ~~investigative and comparison purposes. Photographs shall be placed in a format approved~~  
26 ~~by the State Bureau of Investigation and may be used for all investigative or comparison~~  
27 ~~purposes.~~

28 (c) ~~Fingerprints and photographs taken pursuant to this section are not public~~  
29 ~~records under Chapter 132 of the General Statutes, shall not be included in the clerk's~~  
30 ~~record pursuant to G.S. 7A-675, shall be maintained separately from any juvenile record,~~  
31 ~~shall be withheld from public inspection or examination, and shall not be eligible for~~  
32 ~~expunction pursuant to G.S. 7A-676.~~

#### 33 ARTICLE 49.

#### 34 Transfer to Superior Court.

35 ~~§ 7A-608. Transfer of jurisdiction of juvenile to superior court.~~

36 ~~The court after notice, hearing, and a finding of probable cause may transfer~~  
37 ~~jurisdiction over a juvenile to superior court if the juvenile was 13 years of age or older at~~  
38 ~~the time the juvenile allegedly committed an offense that would be a felony if committed~~  
39 ~~by an adult. If the alleged felony constitutes a Class A felony and the court finds probable~~  
40 ~~cause, the court shall transfer the case to the superior court for trial as in the case of~~  
41 ~~adults.~~

42 ~~§ 7A\*court.~~

1 When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall  
2 be fingerprinted and his fingerprints shall be sent to the State Bureau of Investigation.

3 **§ 7A**

4 (a) ~~—The court shall conduct a hearing to determine probable cause in all felony~~  
5 ~~eases in which a juvenile was 13 years of age or older when the offense was allegedly~~  
6 ~~committed. Counsel for the juvenile may waive in writing the right to the hearing and~~  
7 ~~stipulate to a finding of probable cause. The court may exclude the public from the~~  
8 ~~hearing unless the juvenile moves that the hearing be open, which motion shall be~~  
9 ~~granted.~~

10 (b) ~~At the probable cause hearing,~~

11 (1) ~~A prosecutor must represent the State;~~

12 (2) ~~The juvenile shall be represented by counsel in accordance with G.S.~~  
13 ~~7A-584;~~

14 (3) ~~The juvenile may testify as a witness in his own behalf and call and~~  
15 ~~examine other witnesses and produce other evidence in his behalf; and~~

16 (4) ~~Each witness must testify under oath or affirmation and be subject to~~  
17 ~~cross examination.~~

18 (c) ~~The State must by nonhearsay evidence, or by evidence that satisfies an~~  
19 ~~exception to the hearsay rule, show that there is probable cause to believe that the offense~~  
20 ~~charged has been committed and that there is probable cause to believe that the juvenile~~  
21 ~~committed it, except:~~

22 (1) ~~A report or copy of a report made by a physicist, chemist, firearms~~  
23 ~~identification expert, fingerprint technician, or an expert or technician in~~  
24 ~~some other scientific, professional, or medical field, concerning the~~  
25 ~~results of an examination, comparison, or test performed by him in~~  
26 ~~connection with the case in issue, when stated by that person in a report~~  
27 ~~made by him, is admissible in evidence;~~

28 (2) ~~If there is no serious contest, reliable hearsay is admissible to prove~~  
29 ~~value, ownership of property, possession of property in another than the~~  
30 ~~juvenile, lack of consent of the owner, possessor, or custodian of~~  
31 ~~property to the breaking or entering of premises, chain of custody, and~~  
32 ~~authenticity of signatures.~~

33 (d) ~~The juvenile's attorney has the right to examine any court or probation records~~  
34 ~~considered by the court in exercising its discretion to transfer the case.~~

35 **§ 7Aa**

36 (a) ~~—If probable cause is found and transfer to superior court is not required by G.S.~~  
37 ~~7A-608, the prosecutor or the juvenile may move that the case be transferred to the~~  
38 ~~superior court for trial as in the case of adults. The judge may proceed to determine~~  
39 ~~whether the needs of the juvenile or the best interest of the State will be served by~~  
40 ~~transfer of the case to superior court for trial as in the case of adults. When the case is~~  
41 ~~transferred to superior court, the superior court has jurisdiction over that felony, any~~  
42 ~~offense based on the same act or transaction or on a series of acts or transactions~~

1 connected together or constituting parts of a single scheme or plan of that felony, and any  
2 greater or lesser included offense of that felony.

3 (b) If probable cause is not found, the judge shall dismiss the proceeding.

4 (c) Any order of transfer shall specify the reasons for transfer.

5 (d) A finding of no probable cause shall not preclude the judge from adjudicating  
6 the juvenile delinquent for the commission of a lesser included offense.

7 ~~§ 7Af Once the order of transfer has been entered, the juvenile has the right to~~  
8 ~~pretrial release as provided in G.S. 15A-533 and 15A-534. The release~~  
9 ~~order shall specify the person or persons to whom the juvenile may be~~  
10 ~~released. Pending release under this Article, the judge shall order that the~~  
11 ~~juvenile be detained in a local detention home as defined by G.S. 7A-~~  
12 ~~517(15) or a regional detention home as defined by G.S. 7A-517(26) while~~  
13 ~~awaiting trial. The judge may order the juvenile to be held in a holdover~~  
14 ~~facility as defined by G.S. 7A-517(16) at any time the presence of the~~  
15 ~~juvenile is required in court for pretrial hearings or trial, if the judge finds~~  
16 ~~that it would be inconvenient to return the juvenile to the local or regional~~  
17 ~~detention home.~~

18 Should the juvenile be found guilty, or enter a plea of guilty or no contest to criminal  
19 offenses in superior court and the juvenile receives an active sentence, then immediate  
20 transfer to the Department of Correction shall be ordered. Until such time as the juvenile  
21 is transferred to the Department of Correction, the juvenile may be detained in a holdover  
22 facility as defined by G.S. 7A-517(16). The juvenile may not be detained in a local  
23 detention home as defined by G.S. 7A-517(15) or a regional detention home as defined  
24 by G.S. 517(26) [G.S. 7A-517(26)] pending transfer to the Department of Correction.  
25 The juvenile may be kept by the Department of Correction as a safekeeper until the  
26 juvenile is placed in an appropriate correctional program.

27 ~~§ 7A Jeopardy attaches in an adjudicatory hearing when the judge begins to hear~~  
28 ~~evidence.~~

29 §§7Ae

30 "ARTICLE 50-7.

31 "Discovery.

32 ~~§ 7A (a) Statement of the Juvenile. — Upon motion of a juvenile alleged to be~~  
33 ~~delinquent, the judge shall order the petitioner:~~

34 (1) To permit the juvenile to inspect and copy any relevant written or recorded  
35 statements within the possession, custody, or control of the petitioner made by the  
36 juvenile or any other party charged in the same action; and

37 (2) To divulge, in written or recorded form, the substance of any oral statement  
38 made by the juvenile or any other party charged in the same action.

39 (b) Names of Witnesses. — Upon motion of the juvenile, the judge shall order the  
40 petitioner to furnish the names of persons to be called as witnesses. A copy of the record  
41 of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon  
42 his motion if accessible to the petitioner.

1       ~~(e) Documents and Tangible Objects.—Upon motion of the juvenile, the judge~~  
2 ~~shall order the petitioner to permit the juvenile to inspect and copy books, papers,~~  
3 ~~documents, photographs, motion pictures, mechanical or electronic recordings, tangible~~  
4 ~~objects, or portions thereof:~~

5           ~~(1) Which are within the possession, custody, or control of the petitioner,~~  
6 ~~the prosecutor, or any law enforcement officer conducting an~~  
7 ~~investigation of the matter alleged; and~~

8           ~~(2) Which are material to the preparation of his defense, are intended for~~  
9 ~~use by the petitioner as evidence, and were obtained from or belong to~~  
10 ~~the juvenile.~~

11       ~~(d) Reports of Examinations and Tests.—Upon motion of a juvenile, the judge~~  
12 ~~shall order the petitioner to permit the juvenile to inspect and copy results of physical or~~  
13 ~~mental examinations or of tests, measurements or experiments made in connection with~~  
14 ~~the case, within the possession, custody, or control of the petitioner. In addition upon~~  
15 ~~motion of a juvenile, the judge shall order the petitioner to permit the juvenile to inspect,~~  
16 ~~examine, and test, subject to appropriate safeguards, any physical evidence or a sample of~~  
17 ~~it or tests or experiments made in connection with the evidence in the case if it is~~  
18 ~~available to the petitioner, the prosecutor, or any law enforcement officer conducting an~~  
19 ~~investigation of the matter alleged and if the petitioner intends to offer the evidence at~~  
20 ~~trial.~~

21       ~~(e) Except as provided in subsections (a) through (d), this Article does not require~~  
22 ~~the production of reports, memoranda, or other internal documents made by the~~  
23 ~~petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in~~  
24 ~~connection with the investigation or prosecution of the case or of statements made by~~  
25 ~~witnesses or the petitioner to anyone acting on behalf of the petitioner.~~

26       ~~(f) Nothing in this section prohibits a petitioner from making voluntary~~  
27 ~~disclosures in the interest of justice.~~

#### 28 ~~§-7As~~

29       ~~(a) Names of Witnesses.—Upon motion of the petitioner, the judge shall order the~~  
30 ~~juvenile to furnish to the petitioner the names of persons to be called as witnesses.~~

31       ~~(b) Documents and Tangible Objects.—If the court grants any relief sought by the~~  
32 ~~juvenile under G.S. 7A-618, subsection (c), upon motion of the petitioner the judge shall~~  
33 ~~order the juvenile to permit the petitioner to inspect and copy books, papers, documents,~~  
34 ~~photographs, motion pictures, mechanical or electronic recordings, tangible objects, or~~  
35 ~~portions thereof which are within the possession, custody, or control of the juvenile and~~  
36 ~~which the juvenile intends to introduce in evidence.~~

37       ~~(c) Reports of Examinations and Tests.—If the court grants any relief sought by~~  
38 ~~the juvenile under G.S. 7A-618, subsection (d), upon motion of the petitioner, the judge~~  
39 ~~shall order the juvenile to permit the petitioner to inspect and copy results of physical or~~  
40 ~~mental examinations or of tests, measurements or experiments made in connection with~~  
41 ~~the case within the possession and control of the juvenile which he intends to introduce in~~  
42 ~~evidence or which were prepared by a witness whom he intends to call if the results relate~~  
43 ~~to the witness's testimony. In addition, upon motion of a petitioner, the judge shall order~~

1 the juvenile to permit the petitioner to inspect, examine, and test, subject to appropriate  
2 safeguards, any physical evidence or a sample of it if the juvenile intends to offer the  
3 evidence or tests or experiments made in connection with the evidence in the case.

4 **§-7Ae**

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

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

11 **§-7Ah If a party, subject to compliance with an order issued pursuant to this Article,  
12 discovers additional evidence prior to or during the hearing or decides to  
13 use additional evidence, and if the evidence is or may be subject to  
14 discovery or inspection under this Article, he shall promptly notify the  
15 other party of the existence of the additional evidence or of the name of  
16 each additional witness.**

17 **"§ 7B-700. Discovery in abuse, neglect and dependency cases.**

18 The chief district court judge in each distirct shall designate by standing order what  
19 procedure shall be followed and what orders may be entered to allow parties discovery  
20 of records including records of the Department of Social Services and records of other  
21 parties and agencies which may be necessary in the representation of any party to the  
22 petition.

23 "ARTICLE

24 "Pre-Adjudication Conference.

25 **"§ 7B-800. Purpose.**

26 The purposes of the conference shall be to explore the possibility of settlement, to  
27 narrow the issues as much as possible, and to stipulate those facts that are not in dispute.

28 **"§ 7B-801. Time of conference.**

29 The clerk shall schedule and notify all parties of the pre-adjudication conference that  
30 shall be held within thirty days of the filing of the petition unless the judge, for good  
31 cause, orders that it be held at a later time. All parties and their attorneys shall attend the  
32 pre-adjudication conference. Failure to appear may result in sanctions by the court.

33 **"§ 7B-802. Procedures for conference.**

34 (a) At or before the conference, each party shall provide to all other parties a  
35 written list of prospective witnesses and exhibits and copies of all available listed exhibits  
36 intended for use at the hearing. Any listed exhibit that is not available for distribution at  
37 or before the conference shall be distributed as soon as it is available.

38 (b) At the conference parties shall:

39 (1) Share witness lists, exhibitg lists, and exhibits;

40 (2) Define the issues;

41 (3) Identify matters that can be stipulated and making stipulaations, and

42 (4) Consider any proposed consent order.



1 (c) At the conclusion of the conference, a pretrial order shall be prepared  
2 reflecting the outcome of the conference and each party shall be provided a copy of the  
3 order.

4 (d) If a parent's identity or whereabouts remain unknown or the paternity of the  
5 child has not been legally established, the order shall specify any steps that are to be  
6 taken to identify the parent, locate the parent, or establish paternity.

7 **"§ 7B-803. Adjudicatory stipulation before judge.**

8 Before accepting a stipulation to findings, conclusions, or provisions of the court's  
9 adjudication order, the judge, in open court, shall determine that the parties understand  
10 the content and consequences of the stipulation, including, if applicable, the possibility  
11 that the child may be removed permanently from the home, and that they voluntarily  
12 consent to the stipulation. The judge shall inquire of the parties in order to determine that  
13 the stipulation is voluntary and knowing. The court's findings shall be set forth on the  
14 record.

15 "ARTICLE 51-9.

16 "Hearing Procedures.

17 **"§ 7B-900. Open hearings.**

18 All hearings under this Subchapter shall be held in open court unless the judge, upon  
19 motion of a party or upon the court's own motion, determines that the possibility of  
20 damage or harm to the child outweighs the public interest in having an open hearing, and  
21 that it is in the child's best interest to exclude the public from the hearing. Upon closing  
22 the hearing to the public, the court may admit those persons who have direct interest in  
23 the case or in the work of the court.

24 ~~"§ 7A The judge may permit a petition to be amended when the amendment does~~  
25 ~~not change the nature of the offense alleged or the conditions upon which~~  
26 ~~the petition is based. If a motion to amend is allowed, the juvenile shall be~~  
27 ~~given a reasonable opportunity to prepare a defense to the amended~~  
28 ~~allegations.~~

29 In an child abuse, neglect, or dependency proceeding, the judge may permit a petition to  
30 be amended under the conditions allowing amendment in G.S. 1A-1, Rule 15.

31 ~~§ 7A temporary commitment; temporary orders.~~

32 ~~The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in~~  
33 ~~which a juvenile is alleged to be delinquent. No juvenile committed under this section~~  
34 ~~may be placed in a situation where he will come in contact with adults committed for any~~  
35 ~~purpose.~~

36 ~~"§ 7A. The adjudicatory hearing shall be held in the district at such the time and~~  
37 ~~place as the chief district judge shall designate. The judge may exclude the~~  
38 ~~public from the hearing unless the juvenile moves that the hearing be~~  
39 ~~open, which motion shall be granted. designate but no later than 60 days~~  
40 ~~from the filing of the petition, unless the judge, pursuant to G.S. orders~~  
41 ~~that it be held at a later time.~~

42 ~~§ 7Ai A prosecutor from the District Attorney's office shall represent the State in~~  
43 ~~contested delinquency hearings including detention, probable cause,~~

1 ~~adjudicatory, dispositional, probation revocation and conditional release~~  
2 ~~hearings.~~

3 "~~§ 7Aa~~ The adjudicatory hearing shall be a judicial process designed to adjudicate  
4 the existence or nonexistence of any of the conditions alleged in a petition.  
5 In the adjudicatory hearing, the judge shall protect the following rights of  
6 the ~~juvenile child~~ and ~~his the child's~~ parent to assure due process of law:  
7 the right to written notice of the facts alleged in the petition, the right to  
8 counsel, the right to confront and cross-examine witnesses, the privilege  
9 against self-incrimination, the right of discovery and ~~all rights afforded~~  
10 ~~adult offenders except the right to bail, the right of self-representation,~~  
11 ~~and the right of trial by jury. the right of self-representation.~~

12 "~~§ 7A~~ juvenile court.

13 The judge may, for good cause, continue the hearing for as long as is reasonably  
14 required to receive additional evidence, reports, or assessments that the court has  
15 requested, or other information needed in the best interest of the ~~juvenile child~~ and to  
16 allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise,  
17 continuances shall be granted only in extraordinary circumstances when necessary for the  
18 proper administration of justice or in the best interest of the ~~juvenile child~~. Juvenile  
19 court shall have priority over all other district court sessions. Orders granting a  
20 continuance shall appear on the record and shall state supporting reasons for granting the  
21 continuance.

22 ~~§ 7A (a) A judge may accept an admission from a juvenile only after first~~  
23 ~~addressing him personally and~~

- 24 (1) ~~Informing him that he has a right to remain silent and that any statement~~  
25 ~~he makes may be used against him;~~  
26 (2) ~~Determining that he understands the nature of the charge;~~  
27 (3) ~~Informing him that he has a right to deny the allegations;~~  
28 (4) ~~Informing him that by his admissions he waives his right to be~~  
29 ~~confronted by the witnesses against him;~~  
30 (5) ~~Determining that the juvenile is satisfied with his representation; and~~  
31 (6) ~~Informing him of the most restrictive disposition on the charge.~~

32 (b) ~~By inquiring of the prosecutor, the juvenile's attorney, and the juvenile~~  
33 ~~personally, the judge shall determine whether there were any prior discussions involving~~  
34 ~~admissions, whether the parties have entered into any arrangement with respect to the~~  
35 ~~admissions and the terms thereof, and whether any improper pressure was exerted. The~~  
36 ~~judge may accept an admission from a juvenile only after determining that the admission~~  
37 ~~is a product of informed choice.~~

38 (c) ~~The judge may accept an admission only after determining that there is a~~  
39 ~~factual basis for the admission. This determination may be based upon any of the~~  
40 ~~following information: a statement of the facts by the prosecutor; a written statement of~~  
41 ~~the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts~~  
42 ~~by the juvenile's attorney.~~

1 ~~"§ 7A (a) Where delinquent or undisciplined behavior is alleged and the allegation~~  
2 ~~is denied, the court shall proceed in accordance with the rules of evidence~~  
3 ~~applicable to criminal cases. In addition, no statement made by a juvenile~~  
4 ~~to the intake counselor during the preliminary inquiry and evaluation~~  
5 ~~process shall be admissible prior to the dispositional hearing.~~

6 (b) ~~Where~~When the juvenile child is alleged to be abused, neglected or dependent,  
7 the rules of evidence in civil cases shall apply.

8 ~~"§ 7A ♦ The allegations of a petition alleging the juvenile is delinquent shall be~~  
9 ~~proved beyond a reasonable doubt. The allegations in a petition alleging~~  
10 ~~abuse, neglect, dependence, or undisciplined behavior or dependence shall~~  
11 ~~be proved by clear and convincing evidence.~~

12 ~~"§ 7Ai All adjudicatory and dispositional hearings and hearings on transfer to~~  
13 ~~superior court shall be recorded by stenographic notes or by electronic or~~  
14 ~~mechanical means. Records shall be reduced to a written transcript only~~  
15 ~~when timely notice of appeal has been given. The judge may order that~~  
16 ~~other hearings be recorded.~~

17 ~~"§ 7An If the judge finds that the allegations in the petition have been proved as~~  
18 ~~provided in G.S. 7A-635, 7B-906, he the judge shall so state. If the judge~~  
19 ~~finds that the allegations have not been proven, he the judge shall dismiss~~  
20 ~~the petition with prejudice and the juvenile child shall be released from~~  
21 ~~secure or onsecure custody.~~

22 ~~§-7Ad An adjudication that a juvenile is delinquent or commitment of a juvenile to~~  
23 ~~the Division of Youth Services shall neither be considered conviction of~~  
24 ~~any criminal offense nor cause the juvenile to forfeit any citizenship rights.~~

25 ~~§-7Af The judge shall proceed to the dispositional hearing upon receipt of sufficient~~  
26 ~~social, medical, psychiatric, psychological, and educational information.~~  
27 ~~No predisposition report shall be submitted to or considered by the judge~~  
28 ~~prior to the completion of the adjudicatory hearing. The judge shall~~  
29 ~~permit the juvenile to inspect any predisposition report to be considered~~  
30 ~~by him in making his disposition unless the judge determines that~~  
31 ~~disclosure would seriously harm his treatment or rehabilitation or would~~  
32 ~~violate a promise of confidentiality. Opportunity to offer evidence in~~  
33 ~~rebuttal shall be afforded the juvenile and his parent, guardian, or~~  
34 ~~custodian at the dispositional hearing. The judge may order counsel not to~~  
35 ~~disclose parts of the report to the juvenile or the juvenile's parent,~~  
36 ~~guardian, or custodian if the judge finds that disclosure would seriously~~  
37 ~~harm the treatment or rehabilitation of the juvenile or would violate a~~  
38 ~~promise of confidentiality given to a source of information.~~

39 "ARTICLE

40 "Dispositions.

41 "§ 7B-1000. Purpose.

42 The purpose of dispositions is to design an appropriate plan to meet the needs of the  
43 child and to achieve the objectives of the State in exercising jurisdiction. If possible, and

1 if consistent with protecting the child's safety, the initial approach should involve  
2 working with the child and the child's family in their own home so that the appropriate  
3 community resources may be involved in care, supervision, and treatment according to  
4 the needs of the child. In these cases, the judge should determine the appropriate  
5 community level services to be provided to the child and the child's family in order to  
6 strengthen the home situation.

7 **"§ 7B-1001. Predisposition reports.**

8 (a) Whenever the director of the department of social services files a petition, the  
9 department of social services shall prepare a predisposition report that includes, but is not  
10 limited to, the the following:

- 11 (1) A description of the placement plan for the child and how that plan is  
12 appropriate to the child's needs;  
13 (2) A description of the plan of services for the child and the child's family,  
14 and how that plan is appropriate to meet the child's needs;  
15 (3) A statement of changes in parental behavior that are needed to correct  
16 the conditions that led to the abuse, neglect, or dependency, and the  
17 actions the parents must take;  
18 (4) If there is a recommendation that the child be removed from the home;  
19 a. A statement of the efforts by the department of social services to  
20 prevent the need for placing the child outside the home or a  
21 statement of why these efforts are not necessary pursuant to  
22 statute;  
23 b. A description of the efforts by the department of social services  
24 to reunify the family, including the services that have been  
25 offered, provided or rejected, or a statement of why these efforts  
26 are not necessary pursuant to statute;  
27 c. A statement o why the child cannot be protected from the  
28 identified problems while remaining in the home;  
29 d. The identity of all relatives and friends who have been contacted  
30 about providing a placement for the child, and a description and  
31 the nature and results of those contacts;  
32 e. A summary of visitation that has occurred and a plan for future  
33 visitation with the child;  
34 f. A statement of the child's special needs and how they may be  
35 met;  
36 g. The identity and location of the child's siblings if they are not  
37 placed together; and  
38 h. If applicable, description of the child's school or day-care  
39 situation and efforts to maintain the same placement.

40 (b) The guardian as litem for the child shall prepare a predisposition report to  
41 assist the court in reaching a disposition that will best serve the child's needs. The report  
42 shall identify the persons contacted and provide a factual basis for any recommendations.

1 (c) The department of social services and the child's guardian as litem shall  
2 provide copies of their predisposition reports to all parties and their counsel before the  
3 pre-adjudication conference.

4 (d) Predisposition reports shall not be submitted to or considered by the court until  
5 the adjudication is completed or the parties have settled all adjudication issues.

6 **"§ 7B-1002. Pre-disposition conference.**

7 (a) The purposes of the conference shall be to explore the possibilities of  
8 settlement, to narrow the issues as much as possible, and to stipulate those facts or  
9 provisions of the dispositional order that are not in dispute.

10 (b) If settlement is reached at the pre-adjudication conference, a pre-disposition  
11 conference shall be held immediately following the pre-adjudication conference. If  
12 disposition occurs on a date after the adjudication, a predisposition conference shall be  
13 held no more than two weeks before the dispositional hearing. The clerk shall schedule  
14 and notify all parties of the pre-disposition conference. All parties and their attorneys  
15 shall attend the pre-disposition conference failure to appear may result in sanctions by the  
16 court.

17 (c) The conference procedures shall be the same as those set forth in G.S. 7B-802.

18 **"§ 7B-1003. Dispositional stipulation before judge.**

19 Before accepting a stipulation to findings, conclusion, or provisions of the court's  
20 disposition order, the judge, in open court, shall determine that the parties understand the  
21 content and consequences of the stipulation and that they voluntarily consent to the  
22 stipulation. The judge shall inquire of the parties in order to determine that the  
23 stipulation is voluntary and knowing. The court's finding shall be set forth on the record.

24 **"§ 7A\* The dispositional hearing may be informal, and the judge may consider**  
25 **written reports or other evidence concerning the needs of the juvenile-**  
26 **child. The juvenile and his child and the child's parent, guardian, or**  
27 **eustodian-custodian, or caretaker shall have an opportunity to present**  
28 **evidence, and they may advise the judge concerning the disposition they**  
29 **believe to be in the best interest of the juvenile-child. The dispositional**  
30 **hearing shall take place immediately after the adjudication unless, for**  
31 **good cause, the judge orders that it should be continued. The judge may**  
32 **exclude the public from the hearing unless the juvenile moves that the**  
33 **hearing be open, which motion shall be granted.**

34 **"§ 7A dependency proceeding.**

35 Nothing in this Article precludes the judge from entering a consent order or judgment  
36 on a petition for abuse, ~~neglect~~-neglect, or dependency when all parties are present,  
37 present and agree to the entry of a consent judgment, the juvenile-child is represented by  
38 counsel and all other parties are either represented by counsel or have waived counsel,  
39 and sufficient findings of fact are made by the judge.

40 ~~ARTICLE 52.~~

41 ~~Dispositions.~~

42 **§ 7A-646. Purpose.**

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

8 In choosing among statutorily permissible dispositions for a delinquent juvenile, the  
9 judge shall select the least restrictive disposition both in terms of kind and duration, that  
10 is appropriate to the seriousness of the offense, the degree of culpability indicated by the  
11 circumstances of the particular case and the age and prior record of the juvenile. A  
12 juvenile should not be committed to training school or to any other institution if the  
13 juvenile can be helped through community level resources. Article 81B of Chapter 15A  
14 of the General Statutes does not apply to juvenile dispositions, except as provided in G.S.  
15 7A-652(e).

16 "~~§ 7A-647. 7B-1006.~~ **Dispositional alternatives for delinquent, undisciplined,  
17 abused, neglected, or dependent juvenile-child.**

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

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

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

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

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

33 c. Place ~~him~~ the child in the custody of the Department of Social  
34 Services in the county of ~~his~~ the child's residence, or in the case  
35 of a ~~juvenile-child~~ who has legal residence outside the State, in  
36 the physical custody of the Department of Social Services in the  
37 county where ~~he~~ the child is found so that agency may return the  
38 ~~juvenile-child~~ to the responsible authorities in ~~his~~ the child's  
39 home state. If the child is placed in the custody of the  
40 Department of Social Services:

41 1. The Director shall not return physical custody of the child  
42 to the parent or other person standing in loco parentis  
43 without a hearing at which the court finds that the child

1                   will receive proper care and supervision in a safe home;  
2                   and

3                   2.       The Director may, unless otherwise ordered by the judge,  
4                   arrange for, provide, or consent to, needed routine or  
5                   emergency medical or surgical care or treatment. In the  
6                   case where the parent is unknown, unavailable or unable  
7                   to act on behalf of ~~their~~ the child or children, the Director  
8                   may, unless otherwise ordered by the judge, arrange for,  
9                   provide or consent to any psychiatric, psychological,  
10                  educational, or other remedial evaluations or treatment for  
11                  the ~~juvenile-child~~ child placed by a judge or ~~his~~ the judge's  
12                  designee in the custody or physical custody of a county  
13                  Department of Social Services under the authority of this  
14                  or any other Chapter of the General Statutes. Prior to  
15                  exercising this authority, the Director shall make  
16                  reasonable efforts to obtain consent from a parent or  
17                  guardian of the affected child. If the Director can not  
18                  obtain ~~such~~ this consent, the Director shall promptly  
19                  notify the parent or guardian that care or treatment has  
20                  been provided and shall give ~~him~~ this person frequent  
21                  status reports on the circumstances of the child. Upon  
22                  request of a parent or guardian of the affected child, the  
23                  results or records of the aforementioned evaluations,  
24                  ~~findings~~ findings, or treatment shall be made available to  
25                  ~~such~~ this parent or guardian by the Director unless  
26                  prohibited by ~~G.S. 122C-53(d)~~ G.S. 122C-53(d); or

27                  d.       Appoint a guardian of the person pursuant to G.S. 7B-600.

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

37                  (3)(4)       In any case, the judge may order that the ~~juvenile-child~~ child be examined by  
38                  a physician, psychiatrist, psychologist or other qualified expert as may  
39                  be needed for the judge to determine the needs of the ~~juvenile-child~~ child.

40                  a.       Upon completion of the examination, the judge shall conduct a  
41                  hearing to determine whether the ~~juvenile-child~~ child is in need of  
42                  medical, surgical, psychiatric, psychological, or other treatment  
43                  and who should pay the cost of the treatment. The county

1 manager, or ~~such the person who shall be~~ designated by the  
2 chairman of the county commissioners, of the juvenile's county  
3 of the child's residence shall be notified of the hearing, and  
4 allowed to be heard. If the judge finds the juvenile-child to be in  
5 need of medical, surgical, psychiatric, psychological or other  
6 treatment, the judge shall permit the parent or other responsible  
7 persons to arrange for treatment. If the parent declines or is  
8 unable to make necessary arrangements, the judge may order the  
9 needed treatment, surgery or care, and the judge may order the  
10 parent to pay the cost of the care pursuant to G.S. ~~7A-650-7B-~~  
11 1007. If the judge finds the parent is unable to pay the cost of  
12 treatment, the judge shall order the county to arrange for  
13 treatment of the juvenile-child and to pay for the cost of the  
14 treatment. The county department of social services shall  
15 recommend the facility that will provide the juvenile-child with  
16 treatment.

- 17 b. If the judge believes, or if there is evidence presented to the  
18 effect that the juvenile-child is mentally ill or is developmentally  
19 disabled, the judge shall refer the juvenile-child to the area  
20 mental health, developmental disabilities, and substance abuse  
21 services director for appropriate action. A juvenile-child shall not  
22 be committed directly to a State hospital or mental retardation  
23 center; and orders purporting to commit a juvenile-child directly  
24 to a State hospital or mental retardation center except for an  
25 examination to determine capacity to proceed shall be void and  
26 of no effect. The area mental health, developmental disabilities,  
27 and substance abuse director shall be responsible for arranging an  
28 interdisciplinary evaluation of the juvenile-child and mobilizing  
29 resources to meet the juvenile's—child's needs. If  
30 institutionalization is determined to be the best service for the  
31 juvenile-child, admission shall be with the voluntary consent of  
32 the parent or guardian. If the parent, guardian, ~~or custodian~~  
33 custodian, or caretaker refuses to consent to a mental hospital or  
34 retardation center admission after ~~such this~~ institutionalization is  
35 recommended by the area mental health, developmental  
36 disabilities, and substance abuse director, the signature and  
37 consent of the judge may be substituted for that purpose. In all  
38 cases in which a regional mental hospital refuses admission to a  
39 juvenile-child referred for admission by a judge and an area  
40 mental health, developmental disabilities, and substance abuse  
41 director or discharges a juvenile-child previously admitted on  
42 court referral prior to completion of ~~his—the~~ treatment, the  
43 hospital shall submit to the judge a written report setting out the



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

- 6 (4) ~~[Effective October 1, 1999] In any case in which a juvenile, who was at~~  
7 ~~least eleven years of age at the time of the offense, is adjudicated~~  
8 ~~delinquent for committing a violation of G.S. 14-27.2 (first degree~~  
9 ~~rape), G.S. 14-27.3 (second degree rape), 14-27.4 (first degree sexual~~  
10 ~~offense), 14-27.5 (second degree sexual offense), or G.S. 14-27.6~~  
11 ~~(attempted rape or sexual offense), the judge, upon a finding that the~~  
12 ~~juvenile is a danger to the community, may order that the juvenile~~  
13 ~~register in accordance with Part 4 of Article 27A of Chapter 14 of the~~  
14 ~~General Statutes.~~

15 **§ 7A undisciplined juvenile.**

16 In the case of any juvenile who is delinquent or undisciplined, the judge may:

- 17 (1) ~~Continue the case for no more than six months in order to allow the~~  
18 ~~family an opportunity to meet the needs of the juvenile through more~~  
19 ~~adequate home supervision, through placement in a private or~~  
20 ~~specialized school or agency, through placement with a relative, or~~  
21 ~~through some other plan approved by the court;~~  
22 (2) ~~Place the juvenile under the protective supervision of a court counselor~~  
23 ~~for no more than one year so that the court counselor may assist the~~  
24 ~~juvenile in securing social, medical, and educational services and may~~  
25 ~~work with the family as a unit to insure the juvenile is provided proper~~  
26 ~~supervision and care;~~  
27 (3) ~~Excuse the juvenile from compliance with the compulsory school~~  
28 ~~attendance law when the judge finds that suitable alternative plans can~~  
29 ~~be arranged by the family through other community resources for one of~~  
30 ~~the following: an education related to the needs or abilities of the~~  
31 ~~juvenile including vocational education or special education; a suitable~~  
32 ~~plan of supervision or placement; or some other plan that the judge finds~~  
33 ~~to be in the best interest of the juvenile.~~

34 **§ 7A-649. Dispositional alternatives for delinquent juvenile.**

35 In the case of any juvenile who is delinquent, the judge may:

- 36 (1) ~~Suspend imposition of a more severe, statutorily permissible disposition~~  
37 ~~with the provision that the juvenile meet certain conditions agreed to by~~  
38 ~~him and specified in the dispositional order. The conditions shall not~~  
39 ~~exceed the maximum criminal sanction permissible for the offense;~~  
40 (2) ~~Require restitution, full or partial, payable within a 12-month period to~~  
41 ~~any person who has suffered loss or damage as a result of the offense~~  
42 ~~committed by the juvenile. The judge may determine the amount, terms,~~  
43 ~~and conditions of the restitution. If the juvenile participated with another~~

1           ~~person or persons, all participants should be jointly and severally~~  
2           ~~responsible for the payment of restitution; however, the judge shall not~~  
3           ~~require the juvenile to make restitution if the juvenile satisfies the court~~  
4           ~~that he does not have, and could not reasonably acquire, the means to~~  
5           ~~make restitution;~~

6           (3) ~~Impose a fine related to the seriousness of the juvenile's offense. If the~~  
7           ~~juvenile has the ability to pay the fine, it shall not exceed the maximum~~  
8           ~~fine for the offense if committed by an adult;~~

9           (4) ~~Order the juvenile to perform supervised community service consistent~~  
10           ~~with the juvenile's age, skill, and ability, specifying the nature of the~~  
11           ~~work and the number of hours required. The work shall be related to the~~  
12           ~~seriousness of the juvenile's offense and in no event may the obligation~~  
13           ~~to work exceed 12 months;~~

14           (5) ~~Order the juvenile to a supervised day program, requiring him to be~~  
15           ~~present at a specified place for all or part of every day or of certain days.~~  
16           ~~The judge also may require the juvenile to comply with any other~~  
17           ~~reasonable conditions specified in the dispositional order that are~~  
18           ~~designed to facilitate supervision;~~

19           (6) ~~Order the juvenile to a community based program of academic or~~  
20           ~~vocational education or to a professional residential or nonresidential~~  
21           ~~treatment program. Participation in the programs shall not exceed 12~~  
22           ~~months;~~

23           (7) ~~Impose confinement on an intermittent basis in an approved detention~~  
24           ~~facility. Confinement shall be limited to not more than five 24-hour~~  
25           ~~periods, the timing of which is determined by the court in its discretion.~~  
26           ~~Confinement in such a case shall be completed within a period of 90~~  
27           ~~days from the date of disposition;~~

28           (8) ~~Place the juvenile on probation under the supervision of a court~~  
29           ~~counselor. In any case where a juvenile is placed on probation, the court~~  
30           ~~counselor shall have the authority to visit the juvenile where he resides.~~  
31           ~~The judge shall specify conditions of probation that are related to the~~  
32           ~~needs of the juvenile including any of the following:~~

33           a. ~~That the juvenile shall remain on good behavior and not violate~~  
34           ~~any laws;~~

35           b. ~~That the juvenile attend school regularly;~~

36           b1. ~~That the juvenile maintain passing grades in up to four courses~~  
37           ~~during each grading period and meet with the court counselor~~  
38           ~~and a representative of the school to make a plan for how to~~  
39           ~~maintain those passing grades;~~

40           c. ~~That the juvenile not associate with specified persons or be in~~  
41           ~~specified places;~~

42           d. ~~That the juvenile report to a court counselor as often as required~~  
43           ~~by a court counselor;~~

1 e. ~~That the juvenile make specified financial restitution or pay a~~  
2 ~~fine in accordance with subdivisions (2) and (3);~~

3 f. ~~That the juvenile be employed regularly if not attending school.~~

4 ~~An order of probation shall remain in force for a period not to exceed~~  
5 ~~one year from the date entered. Prior to expiration of an order of~~  
6 ~~probation, the judge may extend it for an additional period of one year~~  
7 ~~after a hearing if he finds that the extension is necessary to protect the~~  
8 ~~community or to safeguard the welfare of the juvenile;~~

9 (9) ~~Order that the juvenile shall not be licensed to operate a motor vehicle~~  
10 ~~in the State of North Carolina for as long as the court retains jurisdiction~~  
11 ~~over the juvenile or for any shorter period of time;~~

12 (10) ~~Commit the juvenile to the Division of Youth Services in accordance~~  
13 ~~with G.S. 7A-652.~~

14 "~~§ 7A-650. 7B-1007. Authority over parents~~ **parents, guardians, custodians, and**  
15 **caretakers of juvenile child adjudicated as delinquent, undisciplined,**  
16 **abused, neglected, or dependent.**

17 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
18 treatment pursuant to G.S. ~~7A-647(3), 7B-1006~~, the court may order the ~~parent or other~~  
19 ~~responsible parties~~ parent, guardian, custodial, or caretaker to pay the cost of the  
20 treatment or care ordered.

21 (b) ~~The court may order the parent to provide transportation for a juvenile to keep~~  
22 ~~an appointment with a court counselor.~~

23 (b1)(b) At the dispositional hearing or a subsequent hearing in the case of a  
24 juvenile child who has been adjudicated ~~delinquent, undisciplined,~~ abused, neglected, or  
25 dependent, if the court finds that it is in the best interest of the juvenile child for the  
26 parent ~~parent, guardian, custodian, or caretaker~~ to be directly involved in the juvenile's  
27 child's treatment, the court may order the parent to participate in medical, psychiatric,  
28 psychological, or other treatment of the juvenile child. The cost of the treatment shall be  
29 paid pursuant to G.S. ~~7A-647(3)a. 7B-1006.~~

30 (b2)(b1) At the dispositional hearing or a subsequent hearing in the case of a  
31 juvenile child who has been adjudicated ~~delinquent, undisciplined,~~ abused, neglected, or  
32 dependent, the court may determine whether the best interest of the juvenile child  
33 requires that the parent ~~parent, guardian, custodian, or caretaker~~ undergo psychiatric,  
34 psychological, or other treatment or counseling directed toward remediating or  
35 remedying behaviors or conditions that led to or contributed to the juvenile's child's  
36 adjudication or to the court's decision to remove custody of the juvenile child from the  
37 parent ~~parent, guardian, custodian, or caretaker~~ or to facilitate placement of the child  
38 with a parent, guardian, custodian, or caretaker. If the court finds that the best interest of  
39 the juvenile child requires ~~the parent~~ a parent, guardian, custodian, or caretaker undergo  
40 treatment, it may order ~~the parent~~ a parent, guardian, custodian, or caretaker to comply  
41 with a plan of treatment approved by the court or condition legal custody or physical  
42 placement of the juvenile child with the parent ~~upon the parent's~~ parent, guardian,

1 custodian, or caretaker upon the parent's, guardian's, custodian's, or caretaker's  
2 compliance with the plan of treatment.

3 (b2) The court may order the ~~parent-parent, guardian, custodian, or caretaker~~ to pay  
4 the cost of treatment ordered pursuant to ~~this subsection.~~ subsection (b1) of this section.  
5 In cases in which the court has conditioned legal custody or physical placement of the  
6 ~~juvenile-child~~ with the ~~parent-parent, guardian, custodian, or caretaker~~ upon the ~~parent's~~  
7 ~~this person's~~ compliance with a plan of treatment, the court may charge the cost of the  
8 treatment to the county of the ~~juvenile's-child's~~ residence if the court finds the ~~parent~~  
9 ~~parent, guardian, custodian, or caretaker~~ is unable to pay the cost of the ~~treatment.~~  
10 ~~treatment and the treatment is not currently available from the area mental health~~  
11 ~~program that serves the parent, guardian, custodian, or caretaker.~~ In all other cases, if the  
12 court finds the ~~parent-parent, guardian, custodian, or caretaker~~ is unable to pay the cost of  
13 the treatment ordered pursuant to this subsection, the court may order the ~~parent-parent,~~  
14 ~~guardian, custodian, or caretaker~~ to receive treatment currently available from the area  
15 mental health program that serves the ~~parent's-parent's, guardian's, custodian's, or~~  
16 ~~caretaker's~~ catchment area.

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

28 (d) Failure of a parent who is personally served to participate in or comply with  
29 subsections (a) through (c) may result in a ~~civil proceeding-proceedings~~ for ~~contempt.~~  
30 ~~contempt~~ pursuant to Chapter 5A of the General Statutes.

31 **"§ 7B-1008. Authority over public agencies.**

32 At any time after adjudication, if it appears that the best interest of the child may  
33 require that the child receive services from a public agency, the court may direct the clerk  
34 or a party to serve the director or other appropriate representative of the agency with a  
35 written notice of the hearing and of the issues to be addressed that involve that agency. At  
36 the hearing for which the agency has been served with notice, the agency shall have the  
37 opportunity to be heard. The court may hear evidence relating to the level and type of  
38 services that the agency can provide to meet the child's needs. The court shall have  
39 authority to order the public agency to provide or arrange for the provision of services to  
40 meet the child's needs. The failure of the public agency to comply with this order may  
41 result in contempt proceedings pursuant to Chapter 5A of the General Statutes.

42 **"§ 7A-651. 7B-1009. Dispositional order.**

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

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

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

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

13           ~~(2) Findings as to whether reasonable efforts have been made to prevent or~~  
14           ~~eliminate the need for placement of the juvenile in foster care. A finding~~  
15           ~~that reasonable efforts were not made shall not preclude entry of a~~  
16           ~~dispositional order authorizing placement in foster care when the court~~  
17           ~~finds that such placement is needed for protection of the juvenile. When~~  
18           ~~efforts to prevent the need for the juvenile's placement are precluded by~~  
19           ~~an immediate threat of harm to the juvenile, the court may find that~~  
20           ~~placement of the juvenile in the absence of such efforts is reasonable.~~

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

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

31       ~~(e) An order that commits a juvenile to the Division of Youth Services shall recite~~  
32 ~~detailed findings that support commitment to the Division as the least restrictive~~  
33 ~~alternative in light of the circumstances. These findings shall state that all alternatives to~~  
34 ~~commitment prescribed in G.S. 7A-647, 7A-648, and 7A-649 have been attempted~~  
35 ~~unsuccessfully or were considered and found to be inappropriate and that the juvenile's~~  
36 ~~behavior constitutes a threat to persons or property in the community. These findings~~  
37 ~~shall be supported by substantial evidence in the record that the judge determined the~~  
38 ~~needs of the juvenile, determined the appropriate community resources required to meet~~  
39 ~~those needs, and explored and exhausted or considered inappropriate those resources~~  
40 ~~prior to committing the juvenile to the Division.~~

41       (a) The dispositional order shall be in writing and shall contain appropriate  
42 findings of fact and conclusions of law. The judge shall state with particularity, both  
43 orally and in the written order of disposition, the precise terms of the disposition

1 including the kind, duration and the person who is responsible for carrying out the  
2 disposition and the person or agency in whom custody is vested.

3 (b) The dispositional order shall contain a description of the placement plan for the  
4 child, and, if appropriate, a statement of the changes in parental behavior that are needed  
5 to correct the conditions that led to the abuse, neglect or dependency, and the specific  
6 actions the parents must take to correct these conditions.

7 (c) A dispositional order under which a child is removed from the custody of a  
8 parent or person standing in loco parentis shall:

9 (1) Comply with the requirements of G.S. 7B-507;

10 (2) Contain findings whether a relative of the child is willing and able to provide  
11 proper care and supervision of the child in a safe home. If the court finds that the relative  
12 is willing and able to provide proper care and supervision in a safe home, then the court  
13 shall order placement of the child with the relative unless the court finds that the  
14 placement is contrary to the best interests of the child. Prior to the placement of a child  
15 with a relative outside of this State, the placement must be in accordance with the  
16 Interstate Compact on the Placement of Children.

17 (3) Provide for appropriate visitation as may be in the best interests of the child  
18 and consistent with the child's safety. If the child is placed in the custody of the  
19 Department of Social Services, the court may order the Director to arrange, facilitate and  
20 monitor a visitation plan expressly approved by the court, and the court may order that  
21 the Department supervise any such visitation.

22 (4) If practicable, set the date and time for the review hearing required by G.S. 7B-  
23 1010.

24 **Services.**

25 ~~(a) A delinquent juvenile 10 years of age or more may be committed to the~~  
26 ~~Division of Youth Services for placement in one of the residential facilities operated by~~  
27 ~~the Division if the judge finds that the alternatives to commitment as contained in G.S.~~  
28 ~~7A-647, 7A-648, and 7A-649 have been attempted unsuccessfully or were considered~~  
29 ~~and found to be inappropriate and that the juvenile's behavior constitutes a threat to~~  
30 ~~persons or property in the community. These findings shall be supported by substantial~~  
31 ~~evidence in the record that the judge determined the needs of the juvenile, determined the~~  
32 ~~appropriate community resources required to meet those needs, and explored and~~  
33 ~~exhausted or considered inappropriate those resources prior to committing the juvenile to~~  
34 ~~the Division.~~

35 ~~(b) Commitment shall be for:~~

36 ~~(1) An indefinite term not to exceed the eighteenth birthday of the juvenile; or~~

37 ~~(2) A definite term not to exceed two years if the judge finds that the juvenile is 14~~  
38 ~~years of age or older, has been previously adjudicated delinquent for two or more felony~~  
39 ~~offenses, and has been previously committed to a residential facility operated by the~~  
40 ~~Division of Youth Services. The Division may reduce the duration of the definite~~  
41 ~~commitment by an amount not to exceed twenty five percent (25%) if the juvenile has~~  
42 ~~not committed any major infractions of the regulations of any facility to which he is~~

1 assigned, and the Division of Youth Services may move for a reduction of more than  
2 twenty five percent (25%) pursuant to G.S. 7A-664.

3 (e) In no event shall commitment of a delinquent juvenile be for a period of time  
4 in excess of the maximum term of imprisonment for which an adult in prior record level  
5 VI for felonies or in prior conviction level III for misdemeanors could be sentenced for  
6 the same offense. A juvenile committed only for an offense that would be a Class 3  
7 misdemeanor if committed by an adult shall be assigned to a local detention home as  
8 defined by G.S. 7A-517(15) or a regional home as defined by G.S. 7A-517(26).

9 (d) The Chief Court Counselor shall have the responsibility for transporting the  
10 juvenile to the residential facility designated by the Division of Youth Services. The  
11 juvenile shall be accompanied to the residential facility by a person of the same sex.

12 (d1) The Chief Court Counselor shall insure that the records requested by the  
13 Director of Youth Services accompany the juvenile upon transportation for admittance to  
14 a training school or, if not obtainable at the time of admission, are sent to the training  
15 school within 15 days of the admission. If records requested by the Division of Youth  
16 Services for admission do not exist, to the best knowledge of the Chief Court Counselor,  
17 he shall so stipulate in writing to the training school. If such records do exist, but the  
18 Chief Court Counselor is unable to obtain copies of them, a district court judge may order  
19 that the records from public agencies be made available to the training school. Records  
20 that are confidential by law shall remain confidential and the Division of Youth Services  
21 shall be bound by the specific laws governing the confidentiality of these records. All  
22 records shall be used in a manner consistent with the best interest of the juvenile.

23 (e) The Division of Youth Services shall accept all juveniles who have been  
24 committed for delinquency when the order of commitment appears on its face to contain  
25 the findings required by G.S. 7A-651(e) but may decline to do so otherwise. A  
26 commitment order accompanied by information requested by the Director shall be  
27 forwarded to the Division. The Director shall place the juvenile in the residential facility  
28 that would best provide for his needs and shall notify the committing court. The Secretary  
29 of the Department of Health and Human Services may assign a juvenile committed for  
30 delinquency to any institution or other program of the Department or licensed by the  
31 Department, which program is appropriate to the needs of the juvenile.

32 (f) When the judge commits a juvenile to the Division of Youth Services, the  
33 Director shall prepare a plan for care or treatment within 30 days after assuming custody  
34 of the juvenile.

35 (g) Commitment of a juvenile to the Division of Youth Services does not terminate  
36 the court's continuing jurisdiction rights over the juvenile and his parent or guardian.  
37 Commitment of a juvenile to the Division of Youth Services transfers only physical  
38 custody of the juvenile to the Division. Legal custody remains with the parent, guardian,  
39 agency or institution in whom it was vested.

#### 40 **§ 7A-653. Transfer authority of Governor.**

41 The Governor may order transfer of any person less than 18 years of age from any jail  
42 or penal facility of the State to one of the residential facilities operated by the Division of  
43 Youth Services in appropriate circumstances, provided the Governor shall consult with

1 the Department of Health and Human Services concerning the feasibility of the transfer  
2 in terms of available space, staff, and suitability of program.

3 When an inmate, committed to the Department of Correction, is transferred by the  
4 Governor to a residential program operated by the Division of Youth Services, the  
5 Division of Youth Services may release the juvenile based on the needs of the juvenile  
6 and the best interests of the State. Transfer shall not divest the probation parole officer of  
7 his responsibility to supervise the inmate on release.

8 ~~§ 7A1 The Director of the Division of Youth Services shall be responsible for~~  
9 ~~evaluation of the progress of each juvenile at least once every six months~~  
10 ~~as long as the juvenile remains in the care of the Division. If the Director~~  
11 ~~determines that a juvenile is ready for release, he shall initiate a prerelease~~  
12 ~~planning process. The prerelease planning process shall be defined by~~  
13 ~~rules and regulations of the Division of Youth Services, but shall include~~  
14 ~~the following:~~

15 (1) ~~Written notification to the judge who ordered commitment;~~

16 (2) ~~A prerelease planning conference shall be held involving as many as possible~~  
17 ~~of the following: the juvenile, his parent, court counselors who have supervised the~~  
18 ~~juvenile on probation or will supervise him on aftercare, and staff of the facility that~~  
19 ~~found the juvenile ready for release. The prerelease planning conference shall include~~  
20 ~~personal contact and evaluation rather than telephonic notification.~~

21 (3) ~~The prerelease planning conference participants shall consider, based on the~~  
22 ~~individual needs of the juvenile, and pursuant to rules adopted by the Division, placement~~  
23 ~~of the juvenile in any program under the auspices of the Division, including the~~  
24 ~~Community Based Alternatives programs, or under the Administrative Office of the~~  
25 ~~Courts, that, in the judgment of the Division, may serve as a transitional placement,~~  
26 ~~pending release under G.S. 7A-655.~~

27 ~~§ 7A-655. Conditional release and final discharge.~~

28 The Division of Youth Services shall release a juvenile either by conditional release  
29 or by final discharge. The decision as to which type of release is appropriate shall be  
30 made by the Director based on the needs of the juvenile and the best interests of the State  
31 under rules and regulations governing release which shall be promulgated by the Division  
32 of Youth Services, according to the following guidelines:

33 (1) ~~Conditional release is appropriate for a juvenile needing supervision after~~  
34 ~~leaving the institution. As part of the prerelease planning process, the terms of~~  
35 ~~conditional release shall be set out in writing and a copy given to the juvenile, the~~  
36 ~~juvenile's parent, the committing court, and the court counselor who will provide~~  
37 ~~aftercare supervision. The time that a juvenile spends on conditional release shall be~~  
38 ~~credited toward the juvenile's maximum period of commitment to the Division of Youth~~  
39 ~~Services.~~

40 (2) ~~Final discharge is appropriate when the juvenile does not require supervision,~~  
41 ~~has completed a maximum commitment for the juvenile's offense, or is 18 years of age.~~

42 (3) ~~Notwithstanding G.S. 7A-675, before the Division of Youth Services considers~~  
43 ~~for release a juvenile who is serving a commitment for a Class A or B1 felony, the~~



1 Division shall notify, at least 30 days in advance of considering the release, by first class  
2 mail at the last known address:

- 3 a. The juvenile;  
4 b. The juvenile's parent, guardian, or custodian;  
5 c. The district attorney of the district where the juvenile was  
6 adjudicated;  
7 d. The head law enforcement agency that took the juvenile into  
8 custody; and  
9 e. The victim, and any of the victim's immediate family members  
10 who have requested in writing to be notified.

11 The notification shall include only the juvenile's name, offense, date of  
12 commitment, and date of consideration for release.

13 ~~§ 7A. If a juvenile does not conform to the terms of his conditional release, the court~~  
14 ~~counselor providing aftercare supervision may make a motion for review~~  
15 ~~in the court in the district where the juvenile has been residing during~~  
16 ~~aftercare supervision. The judge shall hold a hearing to determine~~  
17 ~~whether there has been a violation. With respect to any hearing pursuant~~  
18 ~~to this section, the juvenile:~~

19 (1) Shall have reasonable notice in writing of the nature and content of the  
20 allegations in the petition, including notice that the purpose of the hearing is to determine  
21 whether the juvenile has violated the terms of his conditional release to the extent that his  
22 conditional release should be revoked;

23 (2) Shall be permitted to be represented by an attorney at the hearing;

24 (3) Shall have the right to confront and cross-examine any persons who have made  
25 allegations against him;

26 (4) May admit, deny, or explain the violation alleged and may present proof,  
27 including affidavits or other evidence, in support of his contentions. A record of the  
28 proceeding shall be made and preserved in the juvenile's record.

29 If the judge determines that the juvenile has violated the terms of his conditional  
30 release, the judge may revoke the conditional release or make any other disposition  
31 authorized by this Subchapter.

32 If the judge revokes the conditional release, the Chief Court Counselor shall have the  
33 responsibility for returning the juvenile to the facility specified by the Division of Youth  
34 Services.

35 "~~§ 7A-657. 7B-1010. Review of custody order.~~

36 (a) In any case where custody is removed from a parent, Except as specified in  
37 subsection (b) of this section, the judge shall conduct a review within six months of the  
38 date the order was entered, 90 days from the disposition hearing and shall conduct a  
39 second review within six months after the first review, and shall conduct a subsequent  
40 reviews review at least every year thereafter. every six months thereafter.

41 (b) ~~The Director of Social Services shall make timely requests to the~~ The clerk to  
42 shall calendar the case in a timely manner at a session of court scheduled for the hearing  
43 of juvenile matters within six months of the date the order was entered. hearings under

1 ~~this Subchapter. The Director shall make timely requests for calendaring subsequent~~  
2 ~~reviews. The clerk shall give 15 days' notice of the review and its purpose to the parent or~~  
3 ~~the person standing in loco parentis, the juvenile if 12 years of age or more, the guardian,~~  
4 ~~foster parent, custodian or agency with custody, the guardian ad litem, and any other~~  
5 ~~person the court may specify, indicating the court's impending review. The Director of~~  
6 ~~Social Services shall give 15 days notice of the review to any relative, foster parent or~~  
7 ~~preadoptive parent providing care for the child and to the child if the child is at least 12~~  
8 ~~years of age and has not been appointed a guardian ad litem. The Director of Social~~  
9 ~~Services shall document delivery of the notice in the social services' case record.~~  
10 ~~Nothing in this provision shall be construed to make any foster parent, relative, or~~  
11 ~~preadoptive parent providing care for the child a party to the proceeding solely based on~~  
12 ~~receiving the notice and an opportunity to be heard.~~

13 (c) The Director of Social Services shall deliver a written court summary to all  
14 counsel, unrepresented parties, and the administrator of the guardian ad litem program at  
15 least 10 days before each review hearing. The summary shall describe the progress in the  
16 case since the last hearing and include current recommendations.

17 (d) At least five days prior to the review hearing, the court shall conduct a  
18 prehearing conference. The administrator of the guardian ad litem program shall provide  
19 a written court summary to the Director of Social Services, all counsel, and unrepresented  
20 parties at or before the prehearing conference. The report shall identify the persons  
21 contacted and provide a factual basis for any recommendations. The prehearing  
22 conference shall be conducted pursuant to the General Rules of Practice in the applicable  
23 district court adopted pursuant to G.S. 7A-34.

24 ~~(b)(e)~~ (e) Notwithstanding other provisions of this Article, the court may waive the  
25 holding of review hearings required by subsection ~~(a)~~, (a) and G.S. 7B-1011, may require  
26 written reports to the court by the agency or person holding custody in lieu of review  
27 hearings, or order that review hearings be held less often than every ~~12~~ six months, if the  
28 court finds by clear, cogent and convincing evidence that:

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

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

42 ~~(e)(f)~~ (f) At every review hearing, the court shall consider information from ~~the~~  
43 ~~Department of Social Services, the court counselor, the juvenile, the parent or person~~

1 ~~standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any~~  
2 ~~public or private agency which the parent, any person standing in loco parentis, the child,~~  
3 ~~the guardian, any foster parent, relative or preadoptive parent providing care for the child,~~  
4 ~~the custodian or agency with custody, the guardian ad litem, and any other person or~~  
5 ~~agency that will aid it in its review.~~

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

- 8 ~~(1) Services which have been offered to reunite the family, or whether~~  
9 ~~efforts to reunite the family clearly would be futile or inconsistent with~~  
10 ~~the juvenile's safety and need for a safe, permanent home within a~~  
11 ~~reasonable period of time;~~  
12 ~~(2) Where the juvenile's return home is unlikely, the efforts which have~~  
13 ~~been made to evaluate or plan for other methods of care;~~  
14 ~~(3) Goals of the foster care placement and the appropriateness of the foster~~  
15 ~~care plan;~~  
16 ~~(4) A new foster care plan, if continuation of care is sought, that addresses~~  
17 ~~the role the current foster parent will play in the planning for the~~  
18 ~~juvenile;~~  
19 ~~(5) Reports on the placements the juvenile has had and any services offered~~  
20 ~~to the juvenile and the parent;~~  
21 ~~(6) When and if termination of parental rights should be considered;~~  
22 ~~(7) Any other criteria the court deems necessary.~~  
23 (1) Whether the agency's efforts to locate, notify, and work with all parties  
24 not currently active in the litigation have been sufficient, and what  
25 further actions are necessary.  
26 (2) Whether the parents are able or have contributed financially to the  
27 child's support.  
28 (3) A summary of parental visitation that has occurred since the last  
29 hearing.  
30 (4) A brief description of the services and assistance that have been offered  
31 or provided to the family since the previous hearing if the previous  
32 hearing found reunification to be the case objective.  
33 (5) The extend to which problems necessitating State intervention have  
34 been remedied and, if reunification continues to be the case objective,  
35 the actions that should be taken by the parents to permit the return of the  
36 child.  
37 (6) Whether efforts to reunite the family clearly would be futile or  
38 inconsistent with the child's safety and need for a safe, permanent home  
39 within a reasonable period of time.  
40 (7) Where efforts to reunite the family have been previously found to be  
41 futile or inconsistent with the child's safety and the need for a safe,  
42 permanent home within a reasonable period of time, the efforts that  
43 have been made to evaluate or plan for other permanent placement.

- 1           (8) An assessment of compliance by the agency and parents with the  
2           Department of Social Services case plan and with previous orders and  
3           recommendations of the court.  
4           (9) Reports on the placements the child has had and the appropriateness of  
5           the current placement, and any services offered to the child.  
6           (10) The location of any siblings, and if siblings are separated, a statement of  
7           the reasons for the separation, and whether steps have been and will be  
8           taken to unite them and to maintain regular contact during the  
9           separation.  
10          (11) A proposed timetable for the child's return home or other permanent  
11          placement.  
12          (12) If the child is 16 or 17 years of age, a report on an independent living  
13          assessment of the child, and, if appropriated, an independent living plan  
14          for the child.  
15          (13) An appropriate visitation plan.  
16          (14) Any other criteria the court considers necessary.

17          ~~(d) (g) The judge, after making findings of fact, may appoint a guardian of the person~~  
18          ~~for the juvenile child pursuant to G.S. 7A-585-7B-600 or may make any disposition~~  
19          ~~authorized by G.S. 7A-647, including the authority to place the child in the custody of~~  
20          ~~either parent or any relative found by the court to be suitable and found by the court to be~~  
21          ~~in the best interest of the juvenile child. If the juvenile is placed in or remains in the~~  
22          ~~custody of the department of social services, the court may authorize the department to~~  
23          ~~arrange and supervise a visitation plan. Except for such visitation, the juvenile shall not~~  
24          ~~be returned to the parent or person standing in loco parentis without a hearing at which~~  
25          ~~the court finds sufficient facts to show that the juvenile will receive proper care and~~  
26          ~~supervision.—The court may enter an order continuing the placement under review or~~  
27          ~~providing for a different placement as is deemed to be in the best interest of the juvenile~~  
28          ~~child. If at any time custody is restored to a parent, the court shall be relieved of the duty~~  
29          ~~to conduct periodic judicial reviews of the placement.~~

30          ~~(d1) At a hearing designated by the court, but at least within 12 months after the~~  
31          ~~juvenile's placement, a review hearing shall be held under this section and designated as a~~  
32          ~~permanency planning hearing. The purpose of the hearing shall be to develop a plan to~~  
33          ~~achieve a safe, permanent home for the juvenile within a reasonable period of time.~~  
34          ~~Notice of the hearing shall inform the parties of the purpose of the hearing. At the~~  
35          ~~conclusion of the hearing, if the juvenile is not returned home, the judge shall make~~  
36          ~~specific findings as to the best plan of care to achieve a safe, permanent home for the~~  
37          ~~juvenile within a reasonable period of time and shall enter an order consistent with those~~  
38          ~~findings.~~

39          ~~(e)(h) The provisions of subsections (b), (c), and (d) of G.S. 7A-651-7B-507 shall~~  
40          ~~apply to any order entered under this section which continues the foster care placement of~~  
41          ~~a juvenile section.~~

42          "§ 7B-1011. Permanency planning hearing.

1       (a) At a hearing designated by the court, but at least 12 months after the filing of  
2 the petition, a review designated as a permanency planning hearing shall be held under  
3 this section and may be combined with a review designated as a permanency planning  
4 hearing shall be held under this section and may be combined with a review hearing  
5 required under G.S. 7B-1010.

6       (b) The purpose of the hearing shall be to develop a plan to achieve a safe,  
7 permanent home for the child within a reasonable period of time.

8       (c) Subsequent permanency planning hearings shall be held at least every six  
9 months thereafter, or earlier as set by the court, to review the progress made in finalizing  
10 the permanency plan for the child, or if necessary, to make a new permanency plan for  
11 the child.

12       (d) The clerk shall calendar in a timely manner the case at a session of court  
13 scheduled for hearings under this Subchapter. The clerk shall give 15 days notice of the  
14 permanency planning hearing to the parent or the person standing in loco parentis, the  
15 guardian, custodian or agency with custody, the guardian ad litem, and any other person  
16 the court may specify, indicating the court's impending hearing. The director of social  
17 services shall give 15 days notice of the hearing to any relative, foster parent or  
18 preadoptive parent providing care for the child, and the child if 12 years of age or more  
19 and not appointed a guardian ad litem. The director of social services shall document  
20 delivery of this notice in the social services' case record. Nothing in this provision shall  
21 be construed to make any foster parent, relative or preadoptive parent providing care for  
22 the child a party to the proceeding solely based on receiving this notice and an  
23 opportunity to be heard.

24       (e) The director of social services shall deliver a written court summary to all  
25 counsel, unrepresented parties, and the Guardian ad Litem Program Administrator at least  
26 ten days before the permanency planning hearing. The summary shall state the  
27 permanent plan of care recommended by the department and the basis for its  
28 recommendation. At least five days prior to the permanency planning hearing, there shall  
29 be a prehearing conference. The Guardian ad Litem Program Administrator shall provide  
30 a written court summary to the director of social services, all counsel, and unrepresented  
31 parties at or before the prehearing conference. The prehearing conference shall be  
32 conducted pursuant to the General Rules of Practice in the applicable district court,  
33 adopted pursuant to G.S. 7A-34.

34       (f) At any permanency planning hearing, the court shall consider information from  
35 the parent, any person standing in loco parentis, the child, the guardian, any foster parent,  
36 relative or preadoptive parent providing care for the child, the custodian or agency with  
37 custody, the guardian ad litem, and any other person or agency which will aid it in its  
38 review.

39       (g) At the conclusion of the hearing, if the child is not returned home, the court  
40 shall consider the following criteria and make written findings regarding those that are  
41 relevant:

- 1           (1)    Whether it is possible for the child to be returned home immediately or  
2           within the next six months and, if not, the reasons why it is not in the  
3           child's best interests to return home;
- 4           (2)    Where the child's return home is unlikely within six months, whether  
5           guardianship or custody with a relative or some other suitable person  
6           should be established, and if so, the rights and responsibilities which  
7           should remain with the parents;
- 8           (3)    Where the child's return home is unlikely within six months, whether  
9           adoption should be pursued and, if so, any barriers to the child's  
10          adoption;
- 11          (4)    Where the child's return home is unlikely within six months, whether  
12          the child should remain in the current placement or be placed in another  
13          permanent living arrangement, and why;
- 14          (5)    Any other criteria the court considers necessary; and
- 15          (6)    A specific time frame for implementing the permanent placement plan.
- 16          (h)    At the conclusion of the hearing, the judge shall make specific findings as to  
17          the best plan of care to achieve a safe, permanent home for the child within a reasonable  
18          period of time. The judge may appoint a guardian of the person for the child pursuant to  
19          G.S. 7B-600 or make any disposition authorized by G.S. 7B-1006, including the authority  
20          to place the child in the custody of either parent or any relative found by the court to be  
21          suitable and found by the court to be in the best interest of the child. If the child is not  
22          returned home, the court shall enter an order consistent with its findings that directs the  
23          department of social services to make reasonable efforts to place the child in a timely  
24          manner in accordance with the permanent plan, to complete whatever steps are necessary  
25          to finalize the permanent placement of the child, and to document these steps in the  
26          child's case plan. If the court continues the foster care placement of the child, and to  
27          document these steps in the child's case plan. If, at any time, custody is restored to a  
28          parent or findings are made in accordance with G.S. 7B-1010(b), the court shall be  
29          relieved of the duty to conduct periodic reviews of the placement. If the court continues  
30          the child's placement in the custody or placement responsibility of a county department of  
31          social services, the provisions of G.S. 7B-507 shall apply to any order entered under this  
32          section.
- 33          (i)    In the case of a child who is in the custody or placement responsibility of a  
34          county department of social services and has been in placement outside the home for 15  
35          of the most recent 22 months, or a court of competent jurisdiction has determined that the  
36          parent has abandoned the child; or has committed murder or voluntary manslaughter of  
37          another child of the parent; or has aided, abetted, attempted, conspired, or solicited to  
38          commit murder or voluntary manslaughter of the child or another child of the parent, the  
39          court shall order the director of the department of social services to initiate a proceeding  
40          to terminate the parental rights of the parent, unless the court finds that:
- 41                (1)    The permanent placement plan is guardianship or custody with a  
42                relative or some other suitable person; or

1           (2)    The court makes specific findings of fact why filing of the petition to  
2           terminate parental rights is not in the best interests of the child; or

3           (3)    The department has not provided to the family of the child the services  
4           the department considers necessary for the safe return of the child to the  
5           child's home, if reasonable efforts to reunify are required to be made  
6           with respect to the child.

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

14          ~~§ 7Ai The judge may review the progress of any juvenile on probation at any time~~  
15          ~~during the period of probation or at the end of probation. The conditions~~  
16          ~~or duration of probation may be modified only as provided in this~~  
17          ~~Subchapter and only after there is notice and a hearing. If a juvenile~~  
18          ~~violates the conditions of his probation, he and his parent after notice, may~~  
19          ~~be required to appear before the court and the judge may make any~~  
20          ~~disposition of the matter authorized by this Subchapter. At the end of or~~  
21          ~~at any time during probation, the judge may terminate probation by~~  
22          ~~written order upon finding that there is no further need for supervision.~~  
23          ~~The finding and order terminating probation may be entered in chambers~~  
24          ~~in the absence of the juvenile and may be based on a report from the court~~  
25          ~~counselor or at the election of the judge, it may be entered with the~~  
26          ~~juvenile present after notice and a hearing.~~

27          "~~§ 7A~~placement court review.

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

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

42               (1)    No more than 30 days and no less than 15 days prior to each review, the  
43               clerk shall give notice of the review to the child if ~~he~~the child is at least

1 12 years of ~~age, age if not appointed a guardian ad litem,~~ the legal  
2 custodian of the child, ~~the any~~ foster parent, ~~relative, or preadoptive~~  
3 ~~parent providing care for the child,~~ the guardian ad litem, if any, and  
4 any other person ~~or agency~~ the court may specify. ~~Only the child if he is~~  
5 ~~at least 12 years of age, the legal custodian of the child, the foster~~  
6 ~~parent, and the guardian ad litem shall attend the review hearings,~~  
7 ~~except as otherwise directed by the court. Nothing in this provision shall~~  
8 ~~be construed to make any foster parent, relative, or preadoptive parent a~~  
9 ~~party to the proceeding solely based on receiving this notice and an~~  
10 ~~opportunity to be heard.~~

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

17 (3) The department of social services shall deliver a written court summary  
18 to all counsel and unrepresented parties at least ten days before each  
19 review hearing. The summary shall include the following:

- 20 1. The child's eligibility for adoption subsidy;
- 21 2. When adoptive parents have been identified, a schedule and  
22 description of steps to be taken to finalize the adoption;
- 23 3. When adoptive parents have not been identified, a discussion of  
24 the department's efforts to locate an adoptive placement;
- 25 4. What educational and other services the child is receiving; the  
26 child's present behaviors, and any changes in the child's  
27 placement since the last hearing; and
- 28 5. The progress in the case since the last hearing and  
29 recommendations.

30 (4) At least five days prior to the review hearing, there shall be a prehearing  
31 conference. The Guardian ad Litem Program Administrator shall  
32 provide a written court summary to the director of social services, all  
33 counsel, and unrepresented parties at or before the prehearing  
34 conference. The prehearing conference shall be conducted pursuant to  
35 the General Rules of Practice in the applicable district court, adopted  
36 pursuant to G.S. 7A-34.

37 (c) ~~The court shall consider at least the following in its review: review shall~~  
38 consider the following criteria and make written findings regarding those that are  
39 relevant:

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



1 (2) Whether the child has been listed for adoptive placement with the North  
2 Carolina Adoption Resource Exchange, the North Carolina Photo  
3 Adoption Listing Service (PALS), or any other ~~specialized adoption~~  
4 ~~agency; State, regional, and national adoption exchanges, including~~  
5 ~~electronic exchange systems; and and~~

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

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

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

16 (f) The process of selection of specific adoptive parents shall be the responsibility  
17 of and within the discretion of the county department of social services or licensed child-  
18 placing agency. ~~The guardian ad litem may request shall be given notice of any adoption~~  
19 ~~selection meeting not less than 10 days prior to the meeting and shall receive information~~  
20 ~~from and consult with the county department or child-placing agency concerning the~~  
21 ~~selection process. the issues raised at the selection meeting. If the guardian ad litem~~  
22 ~~requests information about the selection process, the county shall provide the information~~  
23 ~~within five days. Any issue of abuse of discretion by the county department or child-~~  
24 ~~placing agency in the selection process must be raised by the guardian ad litem within 10~~  
25 ~~days following the date the agency notifies the court and the guardian ad litem in writing~~  
26 ~~of the filing of the adoption petition. The guardian ad litem shall be entitled to present~~  
27 ~~any information relevant to the selection process at the adoption selection meeting.~~

28 (g) The county department of social services shall file notice with the court within  
29 10 days of specific adoptive parents being selected. Within 10 days of the filing of the  
30 notice, the guardian ad litem may file a motion seeking review of the selection decision.  
31 A hearing on the motion shall be held within 30 days. The selection of adoptive parents  
32 by the county department of social services shall be upheld unless the court makes  
33 specific findings, by clear, cogent, and convincing evidence, that the county department's  
34 selection decision is not in the best interests of the child.

35 **"§ 7A-660.7B-1013. Review of agency's plan for child placement.**

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

40 (1) One parent has surrendered a child for adoption under the provisions of  
41 Part 7 of Article 3 of Chapter 48 of the General Statutes and the  
42 termination of parental rights proceedings have not been instituted

1 against the non-surrendering parent within ~~six~~two months of the  
2 surrender by the other parent, or

- 3 (2) Both parents have surrendered a child for adoption under the provisions  
4 of Part 7 of Article 3 of Chapter 48 of the General Statutes and that  
5 child has not been placed for adoption within ~~six~~three months from the  
6 date of the more recent parental surrender.

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

13 (c) Notification of the court required under subsections (a) or (b) of this section  
14 shall be by a petition for review. The petition shall set forth the circumstances  
15 necessitating the review under subsections (a) or (b). The review shall be conducted  
16 within 30 days following the filing of the petition for review unless the court shall  
17 otherwise direct. The court shall conduct reviews every six months until the child is  
18 placed for adoption and the adoption petition is filed by the adoptive parents. The initial  
19 review and all subsequent reviews shall be conducted pursuant to G.S. ~~7A-659-7B-1012.~~

20 "~~§ 7As (a) A child placed under a voluntary agreement between the child's parent or~~  
21 ~~guardian and the county department of social services shall not remain in~~  
22 ~~placement more than 90 days without the filing of a petition alleging~~  
23 ~~abuse, neglect, or dependency. The court shall review the placement of~~  
24 ~~any juvenile in foster care made pursuant to a voluntary agreement~~  
25 ~~between the juvenile's parents or guardian and a county department of~~  
26 ~~social services and shall make findings from evidence presented at a~~  
27 ~~review hearing with regard to:~~

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

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

38 (c) ~~An initial review hearing shall be held not more than 180 days after the~~  
39 ~~juvenile's placement and shall be calendared by the clerk for hearing within such period~~  
40 ~~upon timely request by the director of social services. Additional review hearings shall~~  
41 ~~be held at such times as the court shall deem appropriate and shall direct, either upon its~~  
42 ~~own motion or upon written request of the parents, guardian, foster parents or director of~~  
43 ~~social services. A child placed under a voluntary agreement between the juvenile's parent~~

1 ~~or guardian and the county department of social services shall not remain in placement~~  
2 ~~more than 12 months without the filing of a petition alleging abuse, neglect, or~~  
3 ~~dependency.~~

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

8 ~~§§7As~~

9 "ARTICLE ~~53-11.~~

10 "Modification and Enforcement of Dispositional Orders; Appeals.

11 "~~§ 7At~~

12 (a) Upon motion in the cause or petition, and after notice, the judge may conduct a  
13 review hearing to determine whether the order of the court is in the best interest of the  
14 ~~juvenile, child~~ and the judge may modify or vacate the order in light of changes in  
15 circumstances or the needs of the ~~juvenile, child.~~

16 (b) ~~In a case of delinquency, the judge may reduce the nature or the duration of the~~  
17 ~~disposition on the basis that it exceeds the statutory maximum, was imposed in an illegal~~  
18 ~~manner or is unduly severe with reference to the seriousness of the offense, the~~  
19 ~~culpability of the juvenile, or the dispositions given to juveniles convicted of similar~~  
20 ~~offenses.~~

21 (e) ~~(b)~~ In any case where the judge finds the ~~juvenile child~~ to be delinquent,  
22 ~~undisciplined, abused, neglected, or dependent, the jurisdiction of the court to modify any~~  
23 ~~order or disposition made in the case shall continue during the minority of the juvenile~~  
24 ~~child or until terminated by order of the court.~~

25 "~~§ 7AIservices.~~

26 ~~If the Director of the Division of Youth Services finds that any juvenile committed to~~  
27 ~~the Division's care is not suitable for its program the Director may make a motion in the~~  
28 ~~cause so that the judge may make an alternative disposition."~~

29 "~~§ 7Aa~~ Upon motion of a proper party as defined in G.S. ~~7A-667, 7B-1103,~~ review of  
30 any final order of the court in a juvenile matter under this Article shall be  
31 before the Court of Appeals. Notice of appeal shall be given in open court  
32 at the time of the hearing or in writing within 10 days after entry of the  
33 order. However, if no disposition is made within 60 days after entry of the  
34 order, written notice of appeal may be given within 70 days after such  
35 entry. A final order shall include:

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

1 ~~"§ 7A—An appeal may be taken by the juvenile; child the juvenile's child's parent,~~  
2 ~~guardian, or custodian; the State or county agency. The State's appeal is~~  
3 ~~limited to the following:~~

4 (1) ~~Any final order in cases other than delinquency or undisciplined cases;~~  
5 ~~any final order.~~

6 (2) ~~The following orders in delinquency or undisciplined cases:~~

7 a. ~~An order finding a State statute to be unconstitutional;~~

8 b. ~~Any order which terminates the prosecution of a petition by~~  
9 ~~upholding the defense of double jeopardy, by holding that a~~  
10 ~~cause of action is not stated under a statute, or by granting a~~  
11 ~~motion to suppress."~~

12 ~~"§ 7A—Pending disposition of an appeal, the release return of the juvenile, child to~~  
13 ~~the child's parent, guardian, custodian, or caretaker, with or without~~  
14 ~~conditions, should issue in every case unless the judge orders otherwise.~~  
15 ~~For compelling reasons which must be stated in writing, the judge may~~  
16 ~~enter a temporary order affecting the custody or placement of the juvenile~~  
17 ~~child as ~~he~~ the judge finds to be in the best interest of the juvenile or the~~  
18 ~~State. The provisions of subsections (b), (c), and (d) of G.S. ~~7A-651-7B-~~~~  
19 ~~1009 shall apply to any order entered under this section which provides~~  
20 ~~for the placement or continued placement of a juvenile child in foster care.~~

21 ~~"§ 7A~~I~~ Upon the affirmation of the order of adjudication or disposition of the court~~  
22 ~~by the Court of Appeals or by the Supreme Court in the event of such an~~  
23 ~~appeal, the judge ~~shall have authority to~~ may modify or alter ~~his~~ the~~  
24 ~~original order of adjudication or disposition as ~~he~~ the judge finds to be in~~  
25 ~~the best interest of the juvenile child to reflect any adjustment made by~~  
26 ~~the juvenile child or change in circumstances during the period of time~~  
27 ~~the appeal was pending. If the modifying order is entered ex parte, the~~  
28 ~~court shall give notice to interested parties to show cause within 10 days~~  
29 ~~thereafter as to why the modifying order should be vacated or altered.~~

30 ~~§§7Ae~~

31 ~~"ARTICLE ~~54-~~12.~~

32 ~~"Juvenile Records and Social Reports. Records and Social Reports in Cases of Abuse,~~  
33 ~~Neglect, and Dependency.~~

34 ~~"§ ~~7A-675-7B-1200.~~ Confidentiality of records.~~

35 (a) The clerk of superior court shall maintain a complete record of all juvenile  
36 cases filed in the clerk's office ~~to be known as the juvenile record, which alleging abuse,~~  
37 ~~neglect, or dependency. The record shall be withheld from public inspection and, except~~  
38 ~~as provided in this subsection, may be examined only by order of the judge. The record~~  
39 ~~shall include the summons, petition, custody order, court order, written motions, the~~  
40 ~~electronic or mechanical recording of the hearing, and other papers filed in the~~  
41 ~~proceeding. The recording of the hearing shall be reduced to a written transcript only~~  
42 ~~when notice of appeal has been timely given. After the time for appeal has expired with~~

1 no appeal having been filed, the recording of the hearing may be erased or destroyed  
2 upon the written order of the judge.

3 ~~The following persons may examine the juvenile's record without an order of the~~  
4 ~~judge:~~

5 (1) ~~The juvenile, the juvenile's parent, guardian, or custodian, or another~~  
6 ~~authorized representative of the juvenile.~~

7 (2) ~~The prosecutor in a subsequent criminal proceeding against the juvenile.~~

8 ~~The juvenile's record of an adjudication of delinquency for an offense that would be a~~  
9 ~~Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent~~  
10 ~~criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove~~  
11 ~~an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-1340.16(d), or~~  
12 ~~G.S. 15A-2000(e). The record may be so used only by order of the judge in the~~  
13 ~~subsequent criminal proceeding, upon motion of the prosecutor, after an in camera~~  
14 ~~hearing to determine whether the record in question is admissible.~~

15 (b) ~~The Chief Court Counselor shall maintain a record of the cases of juveniles~~  
16 ~~under supervision by court counselors which shall include family background~~  
17 ~~information; reports of social, medical, psychiatric, or psychological information~~  
18 ~~concerning a juvenile or his family; a record of the probation reports of a juvenile;~~  
19 ~~interviews with his family; or other information which the judge finds should be~~  
20 ~~protected from public inspection in the best interest of the juvenile.~~

21 (e)(b) ~~The Director of the Department of Social Services shall maintain a record of~~  
22 ~~the cases of juveniles children under protective custody by ~~his~~ the Department or under~~  
23 ~~placement by the court. This file shall include material similar in nature to that described~~  
24 ~~in subsection (b) family background information; reports of social, medical, psychiatric,~~  
25 ~~or psychological information concerning a child or the child's family; interviews with the~~  
26 ~~child's family; or other information that the judge finds should be protected from public~~  
27 ~~inspection in the best interests of the child. The records maintained pursuant to this~~  
28 ~~subsection may be examined only by order of the court, except that the child, the child's~~  
29 ~~parent, guardian, custodian, caretaker, or the child's guardian ad litem may examine the~~  
30 ~~record without the order of the judge.~~

31 (d) ~~The records maintained pursuant to subsections (b) and (c) may be examined~~  
32 ~~only by order of the judge except that the juvenile shall have the right to examine them.~~

33 (e) ~~Law enforcement records and files concerning a juvenile shall be kept~~  
34 ~~separate from the records and files of adults except in proceedings when jurisdiction of a~~  
35 ~~juvenile is transferred to superior court. Law enforcement records and files concerning~~  
36 ~~juveniles shall be open only to the inspection of the prosecutor, court counselors, the~~  
37 ~~juvenile, his parent, guardian, and custodian.~~

38 (f) ~~All records and files maintained by the Division of Youth Services shall be~~  
39 ~~withheld from public inspection and shall be open only to the inspection of the juvenile,~~  
40 ~~professionals in that agency who are directly involved in the juvenile's case, and court~~  
41 ~~counselors. The judge authorizing commitment of a juvenile shall have the right to~~  
42 ~~inspect and order the release of records maintained by the Division of Youth Services on~~  
43 ~~that juvenile.~~

1       ~~(g)~~(c) Disclosure of information concerning any ~~juvenile under investigation or~~ child  
2 alleged to be within the jurisdiction of the court that would reveal the identity of that  
3 ~~juvenile child~~ is prohibited except that publication of pictures of runaways is permitted  
4 with the permission of the parents.

5       ~~(h)~~(d) The chief district court judge in each district shall designate by standing order  
6 certain agencies in the district as 'agencies authorized to share information'. Agencies so  
7 designated shall share with one another, upon request, information that is in their  
8 possession that is relevant to any case in which a petition is filed alleging that a juvenile  
9 child is abused, neglected, or dependent, and shall continue to do so until the juvenile  
10 child is no longer subject to the juvenile jurisdiction of the court. Agencies that may be  
11 designated as 'agencies authorized to share information' include local mental health  
12 facilities, local health departments, local departments of social services, local law  
13 enforcement agencies, local school administrative units, the district's district attorney's  
14 office, the Division of Juvenile Services of the Administrative Office of the Courts, and  
15 the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any  
16 information shared among agencies pursuant to this subsection shall remain confidential,  
17 shall be withheld from public inspection, and shall be used only for the protection of the  
18 ~~juvenile child~~. Nothing in this section or any other provision of law shall preclude any  
19 other necessary sharing of information among agencies. Nothing herein shall be deemed  
20 to require the disclosure or release of any information in the possession of a district  
21 attorney.

22       ~~(i)~~(e) In the case of a child victim, a judge may order the sharing of information  
23 among such public agencies as the judge deems necessary to reduce the trauma to the  
24 child victim.

25       ~~(j)~~(f) Notwithstanding subsection (a) of this section, the court's entire record of a  
26 proceeding involving consent for an abortion on an unemancipated minor under Article  
27 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be  
28 maintained separately from any juvenile record, shall be withheld from public inspection,  
29 and may be examined only by order of the court, by the unemancipated minor, or by the  
30 unemancipated minor's attorney or guardian ad litem.

31 **"§ ~~7A-675.1, 7B-1201~~. Disclosure in child fatality or near fatality cases.**

32       (a) The following definitions apply in this section:

33           (1) 'Child fatality' means the death of a child from suspected abuse, neglect,  
34 or maltreatment.

35           (2) 'Findings and information' means a written summary, as allowed by  
36 subsections (c) through (f) of this section, of actions taken or services  
37 rendered by a public agency following receipt of information that a  
38 child might be in need of protection. The written summary shall include  
39 any of the following information the agency is able to provide:

40           a. The dates, outcomes, and results of any actions taken or services  
41 rendered.

42           b. The results of any review by the State Child Fatality Prevention  
43 Team, a local child fatality prevention team, a local community

1 child protection team, the Child Fatality Task Force, or any  
2 public agency.

3 c. Confirmation of the receipt of all reports, accepted or not  
4 accepted by the county department of social services, for  
5 investigation of suspected child abuse, neglect, or maltreatment,  
6 including confirmation that investigations were conducted, the  
7 results of the investigations, a description of the conduct of the  
8 most recent investigation and the services rendered, and a  
9 statement of basis for the department's decision.

10 (3) 'Near fatality' means a case in which a physician determines that a child  
11 is in serious or critical condition as the result of sickness or injury  
12 caused by suspected abuse, neglect, or maltreatment.

13 (4) 'Public agency' means any agency of State government or its  
14 subdivisions as defined in G.S. 132-1(a).

15 (b) Notwithstanding any other provision of law and subject to the provisions of  
16 subsections (c) through (f) of this section, a public agency shall disclose to the public,  
17 upon request, the findings and information related to a child fatality or near fatality if:

18 (1) A person is criminally charged with having caused the child fatality or  
19 near fatality; or

20 (2) The district attorney has certified that a person would be charged with  
21 having caused the child fatality or near fatality but for that person's prior  
22 death.

23 (c) Nothing herein shall be deemed to authorize access to the confidential records  
24 in the custody of a public agency, or the disclosure to the public of the substance or  
25 content of any psychiatric, psychological, or therapeutic evaluations or like materials or  
26 information pertaining to the child or the child's family unless directly related to the  
27 cause of the child fatality or near fatality, or the disclosure of information that would  
28 reveal the identities of persons who provided information related to the suspected abuse,  
29 neglect, or maltreatment of the child.

30 (d) Within five working days from the receipt of a request for findings and  
31 information related to a child fatality or near fatality, a public agency shall consult with  
32 the appropriate district attorney and provide the findings and information unless the  
33 agency has a reasonable belief that release of the information:

34 (1) Is not authorized by subsections (a) and (b) of this section;

35 (2) Is likely to cause mental or physical harm or danger to a minor child  
36 residing in the deceased or injured child's household;

37 (3) Is likely to jeopardize the State's ability to prosecute the defendant;

38 (4) Is likely to jeopardize the defendant's right to a fair trial;

39 (5) Is likely to undermine an ongoing or future criminal investigation; or

40 (6) Is not authorized by federal law and regulations.

41 (e) Any person whose request is denied may apply to the appropriate superior  
42 court for an order compelling disclosure of the findings and information of the public  
43 agency. The application shall set forth, with reasonable particularity, factors supporting

1 the application. The superior court shall have jurisdiction to issue such orders. Actions  
2 brought pursuant to this section shall be set down for immediate hearing, and subsequent  
3 proceedings in such actions shall be accorded priority by the appellate courts. After the  
4 court has reviewed the specific findings and information, in camera, the court shall issue  
5 an order compelling disclosure unless the court finds that one or more of the  
6 circumstances in subsection (d) of this section exist.

7 (f) Access to criminal investigative reports and criminal intelligence information  
8 of public law enforcement agencies, and confidential information in the possession of the  
9 State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force,  
10 shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively. Nothing herein shall be  
11 deemed to require the disclosure or release of any information in the possession of a  
12 district attorney.

13 (g) Any public agency or its employees acting in good faith in disclosing or  
14 declining to disclose information pursuant to this section shall be immune from any  
15 criminal or civil liability that might otherwise be incurred or imposed for such action.

16 (h) Nothing herein shall be deemed to narrow or limit the definition of 'public  
17 records' as set forth in G.S. 132-1(a).

18 ~~"§ 7A-675.2. Notification of schools when juveniles are alleged or found to be  
19 delinquent.~~

20 (a) ~~Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal  
21 and written notification of the following actions to the principal of the school that the  
22 juvenile attends:~~

- 23 (1) ~~A petition is filed under G.S. 7A-560 that alleges delinquency for an  
24 offense that would be a felony if committed by an adult;~~
- 25 (2) ~~The judge transfers jurisdiction over a juvenile to superior court under  
26 G.S. 7A-608;~~
- 27 (3) ~~The judge dismisses under G.S. 7A-637 the petition that alleges  
28 delinquency for an offense that would be a felony if committed by an  
29 adult;~~
- 30 (4) ~~The judge issues a dispositional order under Article 52 of Chapter 7A of  
31 the General Statutes including, but not limited to, an order of probation  
32 that requires school attendance, concerning a juvenile alleged or found  
33 delinquent for an offense that would be a felony if committed by an  
34 adult; or~~
- 35 (5) ~~The judge modifies or vacates any order or disposition under G.S. 7A-  
36 664 concerning a juvenile alleged or found delinquent for an offense  
37 that would be a felony if committed by an adult.~~

38 ~~Notification of the school principal in person or by telephone shall be made before the  
39 beginning of the next school day. Delivery shall be made as soon as practicable but at  
40 least within five days of the action. Delivery shall be made in person or by certified mail.  
41 Notification that a petition has been filed shall describe the nature of the offense.  
42 Notification of a dispositional order, a modified or vacated order, or a transfer to superior  
43 court shall describe the judge's action and any applicable disposition requirements. As~~



1 used in this subsection, the term "offense" shall not include any offense under Chapter 20  
2 of the General Statutes.

3 (b) If the principal of the school the juvenile attends returns any notification as  
4 required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is  
5 transferring to another school, the juvenile court counselor shall deliver the notification to  
6 the principal of the school to which the juvenile is transferring. Delivery shall be made as  
7 soon as practicable and shall be made in person or by certified mail.

8 (c) Principals shall handle any notification delivered under this section in  
9 accordance with G.S. 115C-404.

10 (d) For the purpose of this section, "school" means any public or private school in  
11 the State that is authorized under Chapter 115C of the General Statutes."

12 **~~"§ 7A-675.3. Juvenile recidivism rates.~~**

13 (a) On an annual basis, the Administrative Office of the Courts shall compute the  
14 recidivism rate of juveniles who are adjudicated delinquent for offenses that would be  
15 Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are  
16 adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative  
17 Commission on Governmental Operations by December 31 each year.

18 (b) The Chief Court Counselor of each judicial district shall forward to the  
19 Administrative Office of the Courts relevant information, as determined by the  
20 Administrative Office of the Courts, regarding every juvenile who is adjudicated  
21 delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed  
22 by an adult for the purpose of computing the statistics required by this section."

23 **~~"§ 7A-676. Expunction of records of juveniles alleged or adjudicated delinquent and  
24 undisciplined.~~**

25 (a) Any person who has attained the age of 16 years may file a petition in the court  
26 where the person was adjudicated undisciplined for expunction of all records of that  
27 adjudication.

28 (b) Any person who has attained the age of 16 years may file a petition in the court  
29 where the person was adjudicated delinquent for expunction of all records of that  
30 adjudication provided:

31 (1) The offense for which the person was adjudicated would have been a  
32 crime other than a Class A, B1, B2, C, D, or E felony if committed by  
33 an adult.

34 (2) The person has not subsequently been adjudicated delinquent or  
35 convicted as an adult of any felony or misdemeanor other than a traffic  
36 violation under the laws of the United States or the laws of this State or  
37 any other state.

38 Records relating to an adjudication for an offense that would be a Class A, B1, B2, C,  
39 D, or E felony if committed by an adult shall not be expunged.

40 (c) The petition shall contain, but not be limited to, the following:

41 (1) An affidavit by the petitioner that he has been of good behavior since  
42 the adjudication and, in the case of a petition based on a delinquency  
43 adjudication, that he has not subsequently been adjudicated delinquent

1           ~~or convicted as an adult of any felony or misdemeanor other than a~~  
2           ~~traffic violation under the laws of the United States, or the laws of this~~  
3           ~~State or any other state;~~

4           (2) ~~Verified affidavits of two persons, who are not related to the petitioner~~  
5           ~~or to each other by blood or marriage, that they know the character and~~  
6           ~~reputation of the petitioner in the community in which he lives and that~~  
7           ~~his character and reputation are good;~~

8           (3) ~~A statement that the petition is a motion in the cause in the case wherein~~  
9           ~~the petitioner was adjudicated delinquent or undisciplined.~~

10          ~~The petition shall be served upon the district attorney in the district wherein~~  
11          ~~adjudication occurred. The district attorney shall have 10 days thereafter in which to file~~  
12          ~~any objection thereto and shall be duly notified as to the date of the hearing on the~~  
13          ~~petition.~~

14          (d) ~~If the judge, after hearing, finds that the petitioner satisfies the conditions set~~  
15          ~~out in subsections (a) or (b), he shall order and direct the clerk of superior court and all~~  
16          ~~law enforcement agencies to expunge their records of the adjudication including all~~  
17          ~~references to arrests, complaints, referrals, petitions, and orders.~~

18          (e) ~~The clerk of superior court shall forward a certified copy of the order to the~~  
19          ~~sheriff, chief of police, or other law enforcement agency.~~

20          (f) ~~Records of a juvenile adjudicated delinquent or undisciplined being maintained~~  
21          ~~by the Chief Court Counselor, an intake counselor or a court counselor shall be retained~~  
22          ~~or disposed of as provided by the Juvenile Services Division.~~

23          (g) ~~Records of a juvenile adjudicated delinquent or undisciplined being maintained~~  
24          ~~by personnel at a residential facility operated by the Division of Youth Services, shall be~~  
25          ~~retained or disposed of as provided by the Department of Health and Human Services.~~

26          (h) ~~Any juvenile or any person who has attained the age of 16 years may file a~~  
27          ~~petition in the court in which he was alleged to be delinquent or undisciplined for~~  
28          ~~expunction of all juvenile records of his having been alleged to be delinquent or~~  
29          ~~undisciplined if the court dismissed the juvenile petition without an adjudication that the~~  
30          ~~juvenile was delinquent or undisciplined. The petition shall be served on the chief court~~  
31          ~~counselor in the district where the juvenile petition was filed. The chief court counselor~~  
32          ~~shall have 10 days thereafter in which to file a written objection in the court. If no~~  
33          ~~objection is filed, the judge may grant the petition without a hearing. If an objection is~~  
34          ~~filed or the judge so directs, a hearing shall be scheduled and the chief court counselor~~  
35          ~~shall be notified as to the date of the hearing. If the judge finds at the hearing that the~~  
36          ~~petitioner satisfies the conditions specified herein, the judge shall order the clerk of~~  
37          ~~superior court and the appropriate law enforcement agencies to expunge their records of~~  
38          ~~the allegations of delinquent or undisciplined acts including all references to arrests,~~  
39          ~~complaints, referrals, juvenile petitions, and orders. The clerk of superior court shall~~  
40          ~~forward a certified copy of the order of expunction to the sheriff, chief of police, or other~~  
41          ~~appropriate law enforcement agency, and to the chief court counselor, and these specified~~  
42          ~~officials shall immediately destroy all records relating to the allegations that the juvenile~~  
43          ~~was delinquent or undisciplined."~~

1 ~~"§ 7A o~~

2 (a) Whenever a juvenile's record is expunged, with respect to the matter in which the  
3 record was expunged, the juvenile who is the subject of the record and his parent may  
4 inform any person or organization including employers, banks, credit companies,  
5 insurance companies, and schools that he was not arrested, he did not appear before the  
6 court, and he was not adjudicated delinquent or undisciplined.

7 (b) Notwithstanding subsection (a), in any delinquency case if the juvenile is the  
8 defendant and chooses to testify or if he is not the defendant and is called as a witness,  
9 the juvenile may be ordered to testify with respect to whether he was adjudicated  
10 delinquent."

11 ~~"§ 7A Upon expunction of a juvenile's record, the clerk of superior court shall send~~  
12 ~~a written notice to the juvenile at his last known address informing him~~  
13 ~~that the record has been expunged and with respect to the matter~~  
14 ~~involved, the juvenile may inform any person that he has no record. The~~  
15 ~~notice shall inform the juvenile further that if the matter involved is a~~  
16 ~~delinquency record, the juvenile may inform any person that he was not~~  
17 ~~arrested or adjudicated delinquent except that upon testifying in a~~  
18 ~~delinquency proceeding, he may be required by a judge to disclose that he~~  
19 ~~was adjudicated delinquent."~~

20 §§7Aa

21 ARTICLE 55.

22 Interstate Compact on Juveniles.

23 ~~"§ 7Aâ The Governor is hereby authorized and directed to execute a Compact on~~  
24 ~~behalf of this State with any other state or states legally joining therein in~~  
25 ~~the form substantially as follows: The contracting states solemnly agree:."~~

26 ~~"§ 7A t That juveniles who are not under proper supervision and control, or who~~  
27 ~~have absconded, escaped or run away, are likely to endanger their own~~  
28 ~~health, morals and welfare, and the health, morals and welfare of others.~~  
29 ~~The cooperation of the states party to this Compact is therefore necessary~~  
30 ~~to provide for the welfare and protection of juveniles and of the public~~  
31 ~~with respect to~~

- 32 (1) Cooperative supervision of delinquent juveniles on probation or parole;  
33 (2) The return, from one state to another, of delinquent juveniles who have  
34 escaped or absconded;  
35 (3) The return, from one state to another, of nondelinquent juveniles who  
36 have run away from home; and  
37 (4) Additional measures for the protection of juveniles and of the public,  
38 which any two or more of the party states may find desirable to  
39 undertake cooperatively.

40 In carrying out the provisions of this Compact the party states shall be guided by the  
41 noncriminal, reformatory, and protective policies which guide their laws concerning  
42 delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states  
43 party to this Compact to cooperate and observe their respective responsibilities for the

1 prompt return and acceptance of juveniles and delinquent juveniles who become subject  
2 to the provisions of this Compact. The provisions of this Compact shall be reasonably  
3 and liberally construed to accomplish the foregoing purposes."

4 ~~"§ 7A That all remedies and procedures provided by this Compact shall be in  
5 addition to and not in substitution for other rights, remedies, and  
6 procedures, and shall not be in derogation of parental rights and  
7 responsibilities."~~

8 ~~"§ 7A That, for the purposes of this Compact, "delinquent juvenile" means any  
9 juvenile who has been adjudged delinquent and who, at the time the  
10 provisions of this Compact are invoked, is still subject to the jurisdiction  
11 of the court that has made such adjudication or to the jurisdiction or  
12 supervision of an agency or institution pursuant to an order of such court;  
13 "probation or parole" means any kind of conditional release of juveniles  
14 authorized under the laws of the states party hereto; "court" means any  
15 court having jurisdiction over delinquent, neglected, or dependent  
16 children; "state" means any state, territory, or possession of the United  
17 States, the District of Columbia, and the Commonwealth of Puerto Rico;  
18 and "residence" or any variant thereof means a place at which a home or  
19 regular place of abode is maintained."~~

20 ~~"§ 7Aâ~~

21 (a) ~~That the parent, guardian, person, or agency entitled to legal custody of a  
22 juvenile who has not been adjudged delinquent but who has run away without the consent  
23 of such parent, guardian, person, or agency may petition the appropriate court in the  
24 demanding state for the issuance of a requisition for his return. The petition shall state the  
25 name and age of the juvenile, the name of the petitioner and the basis of entitlement to  
26 the juvenile's custody, the circumstances of his running away, his location if known at the  
27 time application is made, and such other facts as may tend to show that the juvenile who  
28 has run away is endangering his own welfare or the welfare of others and is not an  
29 emancipated minor. The petition shall be verified by affidavit, shall be executed in  
30 duplicate, and shall be accompanied by two certified copies of the document or  
31 documents on which the petitioner's entitlement to the juvenile's custody is based, such as  
32 birth certificates, letters of guardianship, or custody decrees. Such further affidavits and  
33 other documents as may be deemed proper may be submitted with such petition. The  
34 judge of the court to which this application is made may hold a hearing thereon to  
35 determine whether for the purposes of this Compact the petitioner is entitled to the legal  
36 custody of the juvenile, whether or not it appears that the juvenile has in fact run away  
37 without consent, whether or not he is an emancipated minor, and whether or not it is in  
38 the best interest of the juvenile to compel his return to the state. If the judge determines,  
39 either with or without a hearing, that the juvenile should be returned, he shall present to  
40 the appropriate court or to the executive authority of the state where the juvenile is  
41 alleged to be located a written requisition for the return of such juvenile. Such requisition  
42 shall set forth the name and age of the juvenile, the determination of the court that the  
43 juvenile has run away without the consent of a parent, guardian, person, or agency~~

1 entitled to his legal custody, and that it is in the best interest and for the protection of  
2 such juvenile that he be returned. In the event that a proceeding for the adjudication of  
3 the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at  
4 the time when such juvenile runs away, the court may issue a requisition for the return of  
5 such juvenile upon its own motion, regardless of the consent of the parent, guardian,  
6 person, or agency entitled to legal custody, reciting therein the nature and circumstances  
7 of the pending proceeding. The requisition shall in every case be executed in duplicate  
8 and shall be signed by the judge. One copy of the requisition shall be filed with the  
9 Compact Administrator of the demanding state, there to remain on file subject to the  
10 provisions of law governing records of such court. Upon the receipt of a requisition  
11 demanding the return of a juvenile who has run away, the court or the executive authority  
12 to whom the requisition is addressed shall issue an order to any peace officer or other  
13 appropriate person directing him to take into custody and detain such juvenile. Such  
14 detention order must substantially recite the facts necessary to the validity of its issuance  
15 hereunder. No juvenile detained upon such order shall be delivered over to the officer  
16 whom the court demanding him, shall have appointed to receive him, unless he shall first  
17 be taken forthwith before a judge of a court in the state, who shall inform him of the  
18 demand made for his return, and who may appoint counsel or guardian ad litem for him.  
19 If the judge of such court shall find that the requisition is in order, he shall deliver such  
20 juvenile over to the officer to whom the court demanding him shall have appointed to  
21 receive him. The judge however, may fix a reasonable time to be allowed for the purpose  
22 of testing the legality of the proceeding.

23       Upon reasonable information that a person is a juvenile who has run away from  
24 another state party to this Compact without the consent of a parent, guardian, person, or  
25 agency entitled to his legal custody, such juvenile may be taken into custody without a  
26 requisition and brought forthwith before a judge of the appropriate court who may  
27 appoint counsel or guardian ad litem for such juvenile and who shall determine after a  
28 hearing whether sufficient cause exists to hold the person, subject to the order of the  
29 court, for his own protection and welfare, for such a time not exceeding 90 days as will  
30 enable his return to another state party to this Compact pursuant to a requisition for his  
31 return from a court of that state. If, at the time when a state seeks the return of a juvenile  
32 who has run away, there is pending in the state wherein he is found any criminal charge,  
33 or any proceeding to have him adjudicated a delinquent juvenile for an act committed in  
34 such state, or if he is suspected of having committed within such state a criminal offense  
35 or an act of juvenile delinquency, he shall not be returned without the consent of such  
36 state until discharged from prosecution or other form of proceeding, imprisonment,  
37 detention or supervision for such offense or juvenile delinquency. The duly accredited  
38 officers of any state party to this Compact, upon the establishment of their authority and  
39 the identity of the juvenile being returned, shall be permitted to transport such juvenile  
40 through any and all states party to this Compact, without interference. Upon his return to  
41 the state from which he ran away, the juvenile shall be subject to such further  
42 proceedings as may be appropriate under the laws of that state.

1       ~~(b) That the state to which the juvenile is returned under this Article shall be~~  
2 ~~responsible for payment of the transportation costs of such return.~~

3       ~~(c) That "juvenile" as used in this Article means any person who is a minor under~~  
4 ~~the law of the state of residence of the parent, guardian, person, or agency entitled to the~~  
5 ~~legal custody of such minor."~~

6 ~~"§ 7A~~

7       ~~(a) That the appropriate person or authority from whose probation or parole~~  
8 ~~supervision a delinquent juvenile has absconded or from whose institutional custody he~~  
9 ~~has escaped shall present to the appropriate court or to the executive authority of the state~~  
10 ~~where the delinquent juvenile is alleged to be located a written requisition for the return~~  
11 ~~of such delinquent juvenile. Such requisition shall state the name and age of the~~  
12 ~~delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the~~  
13 ~~circumstances of the breach of the terms of his probation or parole or of his escape from~~  
14 ~~an institution or agency vested with his legal custody or supervision, and the location of~~  
15 ~~such delinquent juvenile, if known, at the time the requisition is made. The requisition~~  
16 ~~shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by~~  
17 ~~two certified copies of the judgment, formal adjudication, or order of commitment which~~  
18 ~~subjects such delinquent juvenile to probation or parole or to the legal custody of the~~  
19 ~~institution or agency concerned. Such further affidavits and documents as may be deemed~~  
20 ~~proper may be submitted with such requisition. One copy of the requisition shall be filed~~  
21 ~~with the Compact Administrator of the demanding state, there to remain on file subject to~~  
22 ~~the provisions of the law governing records of the appropriate court. Upon the receipt of a~~  
23 ~~requisition demanding the return of a delinquent juvenile who has absconded or escaped,~~  
24 ~~the court or the executive authority to whom the requisition is addressed shall issue an~~  
25 ~~order to any peace officer or other appropriate person directing him to take into custody~~  
26 ~~and detain such delinquent juvenile. Such detention order must substantially recite the~~  
27 ~~facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained~~  
28 ~~upon such order shall be delivered over to the officer whom the appropriate person or~~  
29 ~~authority demanding him shall have appointed to receive him, unless he shall first be~~  
30 ~~taken forthwith before a judge of an appropriate court in the state, who shall inform him~~  
31 ~~of the demand made for his return and who may appoint counsel or guardian ad litem for~~  
32 ~~him. If the judge of such court shall find that the requisition is in order, he shall deliver~~  
33 ~~such delinquent juvenile over to the officer whom the appropriate person or authority~~  
34 ~~demanding him shall have appointed to receive him. The judge, however, may fix a~~  
35 ~~reasonable time to be allowed for the purpose of testing the legality of the proceeding.~~

36       ~~Upon reasonable information that a person is a delinquent juvenile who has~~  
37 ~~absconded while on probation or parole, or escaped from an institution or agency vested~~  
38 ~~with his legal custody or supervision in any state party to this Compact, such person may~~  
39 ~~be taken into custody in any other state party to this Compact without a requisition. But~~  
40 ~~in such event, he must be taken forthwith before a judge of the appropriate court, who~~  
41 ~~may appoint counsel or guardian ad litem for such person and who shall determine after a~~  
42 ~~hearing, whether sufficient cause exists to hold the person subject to the order of the court~~  
43 ~~for such a time, not exceeding 90 days, as will enable his detention under a detention~~

1 order issued on a requisition pursuant to this Article. If, at the time when a state seeks the  
2 return of a delinquent who has either absconded while on probation or parole or escaped  
3 from an institution or agency vested with his legal custody or supervision, there is  
4 pending in the state wherein he is detained any criminal charge or any proceeding to have  
5 him adjudicated a delinquent juvenile for an act committed in such state, or if he is  
6 suspected of having committed within such state a criminal offense or an act of juvenile  
7 delinquency, he shall not be returned without the consent of such state until discharged  
8 from prosecution or other form of proceeding, imprisonment, detention, or supervision  
9 for such offense or juvenile delinquency. The duly accredited officers of any state party  
10 to this Compact, upon the establishment of their authority and the identity of the  
11 delinquent juvenile being returned, shall be permitted to transport such delinquent  
12 juvenile through any and all states party to this Compact, without interference. Upon his  
13 return to the state from which he escaped or absconded, the delinquent juvenile shall be  
14 subject to such further proceedings as may be appropriate under the laws of that state.

15 (b) That the state to which a delinquent juvenile is returned under this Article shall  
16 be responsible for the payment of transportation costs of such return."

17 ~~"§ 7Ac That any delinquent juvenile who has absconded while on probation or~~  
18 ~~parole, or escaped from an institution or agency vested with his legal~~  
19 ~~custody or supervision in any state party to this Compact, and any~~  
20 ~~juvenile who has run away from any state party to this Compact, who is~~  
21 ~~taken into custody without a requisition in another state party to this~~  
22 ~~Compact under the provisions of G.S. 7A-688(a) or 7A-689(a), may~~  
23 ~~consent to his immediate return to the state from which he absconded,~~  
24 ~~escaped or ran away. Such consent shall be given by the juvenile or~~  
25 ~~delinquent juvenile and his counsel or guardian ad litem, if any, by~~  
26 ~~executing or subscribing a writing in the presence of a judge of the~~  
27 ~~appropriate court, which states that the juvenile or delinquent juvenile~~  
28 ~~and his counsel or guardian ad litem, if any, consent to his return to the~~  
29 ~~demanding state. Before such consent shall be executed or subscribed,~~  
30 ~~however, the judge, in the presence of counsel or guardian ad litem, if any,~~  
31 ~~shall inform the juvenile or delinquent juvenile of his rights under this~~  
32 ~~Compact. When the consent has been duly executed, it shall be forwarded~~  
33 ~~to and filed with the Compact Administrator of the state in which the~~  
34 ~~court is located and the judge shall direct the officer having the juvenile or~~  
35 ~~delinquent juvenile in custody to deliver him to the duly accredited officer~~  
36 ~~or officers [of the state demanding his return, and shall cause to be~~  
37 ~~delivered to such officer or officers] a copy of the consent. The court may,~~  
38 ~~however, upon the request of the state to which the juvenile or delinquent~~  
39 ~~juvenile is being returned, order him to return unaccompanied to such~~  
40 ~~state and shall provide him with a copy of such court order, in such event~~  
41 ~~a copy of the consent shall be forwarded to the Compact Administrator of~~  
42 ~~the state to which said juvenile or delinquent juvenile is ordered to~~  
43 ~~return."~~

1 ~~"§ 7Ai~~

2 (a) ~~That the duly constituted judicial and administrative authorities of a state party~~  
3 ~~to this Compact (herein called "sending state") may permit any delinquent juvenile within~~  
4 ~~such state, placed on probation or parole, to reside in any other state party to this~~  
5 ~~Compact (herein called "receiving state") while on probation or parole, and the receiving~~  
6 ~~state shall accept such delinquent juvenile, if the parent, guardian, or person entitled to~~  
7 ~~the legal custody of such delinquent juvenile is residing or undertakes to reside within the~~  
8 ~~receiving state. Before granting such permission, opportunity shall be given to the~~  
9 ~~receiving state to make such investigations as it deems necessary. The authorities of the~~  
10 ~~sending state shall send to the authorities of the receiving state copies of pertinent court~~  
11 ~~orders, social case studies and all other available information which may be of value to~~  
12 ~~and assist the receiving state in supervising a probationer or parolee under this Compact.~~  
13 ~~A receiving state, in its discretion, may agree to accept supervision of a probationer or~~  
14 ~~parolee in cases where the parent, guardian, or person entitled to the legal custody of the~~  
15 ~~delinquent juvenile is not a resident of the receiving state, and if so accepted, the sending~~  
16 ~~state may transfer the supervision accordingly.~~

17 (b) ~~That each receiving state will assume the duties of visitation and of~~  
18 ~~supervision over any such delinquent juvenile and in the exercise of those duties will be~~  
19 ~~governed by the same standards of visitation and supervision that prevail for its own~~  
20 ~~delinquent juveniles released on probation or parole.~~

21 (c) ~~That, after consultation between the appropriate authorities of the sending state~~  
22 ~~and of the receiving state as to the desirability and necessity of returning such a~~  
23 ~~delinquent juvenile, the duly accredited officers of a sending state may enter a receiving~~  
24 ~~state and there apprehend and retake any such delinquent juvenile on probation or parole.~~  
25 ~~For that purpose, no formalities will be required, other than establishing the authority of~~  
26 ~~the officer and the identity of the delinquent juvenile to be retaken and returned. The~~  
27 ~~decision of the sending state to retake a delinquent juvenile on probation or parole shall~~  
28 ~~be conclusive upon and not reviewable within the receiving state, but if, at the time the~~  
29 ~~sending state seeks to retake a delinquent juvenile on probation or parole, there is~~  
30 ~~pending against him within the receiving state any criminal charge or any proceeding to~~  
31 ~~have him adjudicated a delinquent juvenile for any act committed in such state or if he is~~  
32 ~~suspected of having committed within such state a criminal offense or an act of juvenile~~  
33 ~~delinquency, he shall not be returned without the consent of the receiving state until~~  
34 ~~discharged from prosecution or other form of proceeding, imprisonment, detention, or~~  
35 ~~supervision for such offense or juvenile delinquency. The duly accredited officers of the~~  
36 ~~sending state shall be permitted to transport delinquent juveniles being so returned~~  
37 ~~through any and all states party to this Compact, without interference.~~

38 (d) ~~That the sending state shall be responsible under this Article for paying the~~  
39 ~~costs of transporting any delinquent juvenile to the receiving state or of returning any~~  
40 ~~delinquent juvenile to the sending state."~~

41 ~~"§ 7A~~

42 (a) ~~That the provisions of G.S. 7A-688(b), 7A-689(b), and 7A-609(4) [7A-691(d)]~~  
43 ~~of this Compact shall not be construed to alter or affect any internal relationship among~~



1 the departments, agencies, and officers of and in the government of a party state, or  
2 between a party state and its subdivisions, as to the payment of costs, or responsibilities  
3 therefor.

4 (b) That nothing in this Compact shall be construed to prevent any party state or  
5 subdivision thereof from asserting any right against any person, agency, or other entity in  
6 regard to costs for which such party state or subdivision thereof may be responsible  
7 pursuant to G.S. 7A-688(b), 7A-689(b), or 7A-609(4) [7A-691(d)] of this Compact."

8 ~~"§ 7A] That, to every extent possible, it shall be the policy of states party to this  
9 Compact that no juvenile or delinquent juvenile shall be placed or  
10 detained in any prison, jail, or lockup nor be detained or transported in  
11 association with criminal, vicious or dissolute persons."~~

12 ~~"§ 7Au That the duly constituted administrative authorities of a state party to this  
13 Compact may enter into supplementary agreements with any other state  
14 or states party hereto for the cooperative care, treatment, and  
15 rehabilitation of delinquent juveniles whenever they shall find that such  
16 agreements will improve the facilities or programs available for such care,  
17 treatment, and rehabilitation. Such care, treatment, and rehabilitation  
18 may be provided, in an institution located within any state entering into  
19 such supplementary agreement. Such supplementary agreements shall:~~

- 20 (1) Provide the rates to be paid for the care, treatment, and custody of such  
21 delinquent juveniles taking into consideration the character of facilities,  
22 services, and subsistence furnished;
- 23 (2) Provide that the delinquent juvenile shall be given a court hearing prior  
24 to his being sent to another state for care, treatment, and custody;
- 25 (3) Provide that the state receiving such a delinquent juvenile in one of its  
26 institutions shall act solely as agent for the state sending such delinquent  
27 juvenile;
- 28 (4) Provide that the sending state shall at all times retain jurisdiction over  
29 delinquent juveniles sent to an institution in another state;
- 30 (5) Provide for reasonable inspection of such institutions by the sending  
31 state;
- 32 (6) Provide that the consent of the parent, guardian, person, or agency  
33 entitled to the legal custody of said delinquent juvenile shall be secured  
34 prior to his being sent to another state; and
- 35 (7) Make provisions for such other matters and details as shall be necessary  
36 to protect the rights and equities of such delinquent juveniles and of the  
37 cooperating states."

38 ~~"§ 7Aà That any state party to this Compact may accept any and all donations, gifts,  
39 and grants of money, equipment, and services from the federal or any  
40 local government, or any agency thereof and from any person, firm, or  
41 corporation, for any of the purposes and functions of this Compact, and  
42 may receive and utilize, the same subject to the terms, conditions, and  
43 regulations governing such donations, gifts, and grants."~~

1 ~~"§ 7Ae That the governor of each state party to this Compact shall designate an~~  
2 ~~officer who, acting jointly with like officers of other party states, shall~~  
3 ~~promulgate rules and regulations to carry out more efficiently the terms~~  
4 ~~and provisions of this Compact."~~

5 ~~"§ 7Ae That this Compact shall become operative immediately upon its execution by~~  
6 ~~any state as between it and any other state or states so executing. When~~  
7 ~~executed it shall have the full force and effect of law within such state, the~~  
8 ~~form or (of) execution to be in accordance with the laws of the executing~~  
9 ~~state."~~

10 ~~"§ 7Aa That this Compact shall continue in force and remain binding upon each~~  
11 ~~executing state until renounced by it. Renunciation of this Compact shall~~  
12 ~~be by the same authority which executed it, by sending six months' notice~~  
13 ~~in writing of its intention to withdraw from the Compact to the other~~  
14 ~~states party hereto. The duties and obligations of a renouncing state under~~  
15 ~~G.S. 7A-691 hereof shall continue as to parolees and probationers residing~~  
16 ~~therein at the time of withdrawal until retaken or finally discharged.~~  
17 ~~Supplementary agreements entered into under G.S. 7A-694 hereof shall be~~  
18 ~~subject to renunciation as provided by such supplementary agreements,~~  
19 ~~and shall not be subject to the six months' renunciation notice of the~~  
20 ~~present section.~~

21 ~~"§ 7Au That the provisions of this Compact shall be severable and if any phrase,~~  
22 ~~clause, sentence, or provision of this Compact is declared to be contrary to~~  
23 ~~the constitution of any participating state or of the United States or the~~  
24 ~~applicability thereof to any government, agency, person, or circumstances~~  
25 ~~is held invalid, the validity of the remainder of this Compact and the~~  
26 ~~applicability thereof to any government, agency, person, or circumstances~~  
27 ~~shall not be affected thereby. If this Compact shall be held contrary to the~~  
28 ~~constitution of any state participating therein, the Compact shall remain~~  
29 ~~in full force and effect as to the remaining states and in full force and~~  
30 ~~effect as to the state affected as to all severable matters."~~

31 ~~"§ 7Ae Administrator:~~

32 ~~Pursuant to said Compact, the Governor is hereby authorized and empowered to~~  
33 ~~designate an officer who shall be the Compact Administrator and who, acting jointly with~~  
34 ~~like officers of other party states, shall promulgate rules and regulations to carry out more~~  
35 ~~effectively the terms of the Compact. Said Compact Administrator shall serve subject to~~  
36 ~~the pleasure of the Governor. The Compact Administrator is hereby authorized,~~  
37 ~~empowered, and directed to cooperate with all departments, agencies, and officers of and~~  
38 ~~in the government of this State and its subdivisions in facilitating the proper~~  
39 ~~administration of the Compact or of any supplementary agreement or agreements entered~~  
40 ~~into by this State hereunder."~~

41 ~~"§ 7Aa supplementary agreements:~~

42 ~~The Compact Administrator is hereby authorized and empowered to enter into~~  
43 ~~supplementary agreements with appropriate officials of other states pursuant to the~~

1 ~~Compact. In the event that such supplementary agreement shall require or contemplate~~  
2 ~~the use of any institution or facility of this State or require or contemplate the provision~~  
3 ~~of any service by this State, said supplementary agreement shall have no force or effect~~  
4 ~~until approved by the head of the department or agency under whose jurisdiction said~~  
5 ~~institution or facility is operated or whose department or agency will be charged with the~~  
6 ~~rendering of such service."~~

7 **~~"§ 7Agor agreement.~~**

8 ~~The Compact Administrator, subject to the approval of the Director of the Budget,~~  
9 ~~may make or arrange for any payments necessary to discharge any financial obligations~~  
10 ~~imposed upon this State by the Compact or by any supplementary agreement entered into~~  
11 ~~thereunder."~~

12 **~~"§ 7Ae The courts, departments, agencies, and officers of this State and subdivisions~~**  
13 **~~shall enforce this Compact and shall do all things appropriate to the~~**  
14 **~~effectuation of its purposes and intent which may be within their~~**  
15 **~~respective jurisdictions."~~**

16 **~~"§ 7Atprecluded.~~**

17 ~~In addition to any procedure provided in G.S. 7A-688 and 7A-690 of the Compact for~~  
18 ~~the return of any runaway juvenile, the particular states, the juvenile or his parents, the~~  
19 ~~courts, or other legal custodian involved may agree upon and adopt any other plan or~~  
20 ~~procedure legally authorized under the laws of this State and the other respective party~~  
21 ~~states for the return of any such runaway juvenile."~~

22 **~~"§ 7AeCompact; "juvenile" construed.~~**

23 ~~The judge of any court in North Carolina to which an application is made for the~~  
24 ~~return of a runaway under the provisions of G.S. 7A-688 of the Interstate Compact on~~  
25 ~~Juveniles shall hold a hearing thereon to determine whether for the purposes of the~~  
26 ~~Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it~~  
27 ~~appears that the juvenile has in fact run away without consent, whether or not he is an~~  
28 ~~emancipated minor and whether or not it is in the best interest of the juvenile to compel~~  
29 ~~his return to the state. The judge of any court in North Carolina finding that a requisition~~  
30 ~~for the return of a juvenile under the provisions of G.S. 7A-688 of the Compact is in~~  
31 ~~order shall upon request fix a reasonable time to be allowed for the purpose of testing the~~  
32 ~~legality of the proceeding. The period of time for holding a juvenile in custody under the~~  
33 ~~provisions of G.S. 7A-688 of the Compact for his own protection and welfare, subject to~~  
34 ~~the order of a court of this State, to enable his return to another state party to the~~  
35 ~~Compact pursuant to a requisition for his return from a court of that state, shall not~~  
36 ~~exceed 30 days. In applying the provisions of G.S. 7A-688 of the Compact to secure the~~  
37 ~~return of a runaway from North Carolina, the courts of this State shall construe the word~~  
38 ~~"juvenile" as used in this Article to mean any person who has not reached his or her~~  
39 ~~eighteenth birthday."~~

40 **~~"§ 7A juveniles.~~**

41 ~~Where supervision of a parolee or probationer is being administered pursuant to the~~  
42 ~~Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in~~  
43 ~~this State shall notify the Compact Administrator of the sending state whenever, in their~~

1 view, consideration should be given to retaking or reincarceration for a parole or a  
2 probation violation. Prior to the giving of any such notification, a hearing shall be held in  
3 accordance with this Article within a reasonable time, unless such hearing is waived by  
4 the parolee or probationer. The appropriate officer or officers of this State shall as soon as  
5 practicable, following termination of any such hearing, report to the sending state, furnish  
6 a copy of the hearing record, and make recommendations regarding the disposition to be  
7 made of the parolee or probationer by the sending state. Pending any proceeding pursuant  
8 to this section, the appropriate officers of this State may take custody of and detain the  
9 parolee or probationer involved for a period not to exceed 10 days prior to the hearing  
10 and, if it appears to the hearing officer or officers that retaking or reincarceration is likely  
11 to follow, for such reasonable period after the hearing or waiver as may be necessary to  
12 arrange for retaking or the reincarceration."

13 ~~"§ 7A. Any hearing pursuant to this Article may be before the Administrator of the~~  
14 ~~Interstate Compact on Juveniles, a deputy of such Administrator, or any~~  
15 ~~other person authorized pursuant to the juvenile laws of this State to hear~~  
16 ~~cases of alleged juvenile parole or probation violations, except that no~~  
17 ~~hearing officer shall be the person making the allegation of violation."~~

18 ~~"§ 7Ar With respect to any hearing pursuant to this Article, the parolee or~~  
19 ~~probationer:~~

- 20 (1) ~~Shall have reasonable notice in writing of the nature and content of the~~  
21 ~~allegations to be made, including notice that the purpose of the hearing~~  
22 ~~is to determine whether there is probable cause to believe that he has~~  
23 ~~committed a violation that may lead to a revocation of parole or~~  
24 ~~probation;~~  
25 (2) ~~Shall be permitted to advise with any persons whose assistance he~~  
26 ~~reasonably desires, prior to the hearing;~~  
27 (3) ~~Shall have the right to confront and examine any persons who have~~  
28 ~~made allegations against him, unless the hearing officer determines that~~  
29 ~~such confrontation would present a substantial present or subsequent~~  
30 ~~danger of harm to such person or persons;~~  
31 (4) ~~May admit, deny, or explain the violation alleged and may present~~  
32 ~~proof, including affidavits and other evidence, in support of his~~  
33 ~~contentions.~~

34 ~~A record of the proceedings shall be made and preserved."~~

35 ~~"§ 7A outside State.~~

36 ~~In any case of alleged parole or probation violation by a person being supervised in~~  
37 ~~another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or~~  
38 ~~administrative officer or agency in another state is authorized to hold a hearing on the~~  
39 ~~alleged violation. Upon receipt of the record of a parole or probation violation hearing~~  
40 ~~held in another state pursuant to a statute substantially similar to this Article, such record~~  
41 ~~shall have the same standing and effect as though the proceeding of which it is a record~~  
42 ~~was had before the appropriate officer or officers in this State, and any recommendations~~

1 contained in or accompanying the record shall be fully considered by the appropriate  
2 officer or officers of this State in making disposition of the matter."

3 **"§ 7A concerning interstate rendition of juveniles alleged to be delinquent.**

4 (a) This amendment shall provide additional remedies, and shall be binding only  
5 as among and between those party states which specifically execute the same.

6 (b) All provisions and procedures of G.S. 7A-689 and 7A-690 of the Interstate  
7 Compact on Juveniles shall be construed to apply to any juvenile charged with being a  
8 delinquent by reason of a violation of any criminal law. Any juvenile, charged with being  
9 a delinquent by reason of violating any criminal law, shall be returned to the requesting  
10 state upon a requisition to the state where the juvenile may be found. A petition in such  
11 case shall be filed in a court of competent jurisdiction in the requesting state where the  
12 violation of criminal law is alleged to have been committed. The petition may be filed  
13 regardless of whether the juvenile has left the state before or after the filing of the  
14 petition. The requisition described in G.S. 7A-689 of the Compact shall be forwarded by  
15 the judge of the court in which the petition has been filed."

16 **"§ 7Ae (a) The Out-of-State Confinement Amendment to the Interstate Compact on  
17 Juveniles is hereby enacted into law and entered into by this State with all  
18 other states legally joining therein in the form substantially as follows:**

19 (1) Whenever the fully constituted judicial or administrative authorities in a  
20 sending state shall determine that confinement of a probationer or  
21 reconfinement of a parolee is necessary or desirable, said officials may  
22 direct that the confinement or reconfinement be in an appropriate  
23 institution for delinquent juveniles within the territory of the receiving  
24 state, such receiving state to act in that regard solely as agent for the  
25 sending state.

26 (2) Escapees and absconders who would otherwise be returned pursuant to  
27 G.S. 7A-689 of the Compact may be confined or reconfined in the  
28 receiving state pursuant to this amendment. In any such case the  
29 information and allegations required to be made and furnished in a  
30 requisition pursuant to G.S. 7A-689, the sending state shall request  
31 confinement or reconfinement in the receiving state. Whenever  
32 applicable, detention orders as provided in G.S. 7A-689 may be  
33 employed pursuant to this paragraph preliminary to disposition of the  
34 escapee or absconder.

35 (3) The confinement or reconfinement of a parolee, probationer, escapee, or  
36 absconder pursuant to this amendment shall require the concurrence of  
37 the appropriate judicial or administrative authorities of the receiving  
38 state.

39 (4) As used in this amendment: (i) "sending state" means sending state as  
40 that term is used in G.S. 7A-691 of the Compact or the state from which  
41 a delinquent juvenile has escaped or absconded within the meaning of  
42 G.S. 7A-689 of the Compact; (ii) "receiving state" means any state, other  
43 than the sending state, in which a parolee, probationer, escapee, or

- 1           absconder may be found, provided that said state is a party to this  
2           amendment.
- 3           (5)   Every state which adopts this amendment shall designate at least one of  
4           its institutions for delinquent juveniles as a "Compact Institution" and  
5           shall confine persons therein as provided in Paragraph (1) hereof unless  
6           the sending and receiving state in question shall make specific  
7           contractual arrangements to the contrary. All states party to this  
8           amendment shall have access to "Compact Institutions" at all reasonable  
9           hours for the purpose of inspecting the facilities thereof and for the  
10          purpose of visiting such of said State's delinquents as may be confined  
11          in the institution.
- 12          (6)   Persons confined in "Compact Institutions" pursuant to the terms of this  
13          Compact shall at all times be subject to the jurisdiction of the sending  
14          state and may at any time be removed from said "Compact  
15          Institution" for transfer to an appropriate institution within the sending  
16          state, for return to probation or parole, for discharge, or for any purpose  
17          permitted by the laws of the sending state.
- 18          (7)   All persons who may be confined in a "Compact Institution" pursuant to  
19          the provisions of this amendment shall be treated in a reasonable and  
20          humane manner. The fact of confinement or reconfinement in a  
21          receiving state shall not deprive any person so confined or reconfined of  
22          any rights which said person would have had if confined or reconfined  
23          in an appropriate institution of the sending state; nor shall any  
24          agreement to submit to confinement or reconfinement pursuant to the  
25          terms of this amendment be construed as a waiver of any rights which  
26          the delinquent would have had if he had been confined or reconfined in  
27          any appropriate institution of the sending state except that the hearing or  
28          hearings, if any, to which a parolee, probationer, escapee, or absconder  
29          may be entitled (prior to confinement or reconfinement) by the laws of  
30          the sending state may be had before the appropriate judicial or  
31          administrative officers of the receiving state. In this event, said judicial  
32          and administrative officers shall act as agents of the sending state after  
33          consultation with appropriate officers of the sending state.
- 34          (8)   Any receiving state incurring costs or other expenses under this  
35          amendment shall be reimbursed in the amount of such costs or other  
36          expenses by the sending state unless the states concerned shall  
37          specifically otherwise agree. Any two or more states party to this  
38          amendment may enter into supplementary agreements determining a  
39          different allocation of costs as among themselves.
- 40          (9)   This amendment shall take initial effect when entered into by any two or  
41          more states party to the Compact and shall be effective as to those states  
42          which have specifically enacted this amendment. Rules and regulations  
43          necessary to effectuate the terms of this amendment may be

1 promulgated by the appropriate officers of those states which have  
2 enacted this amendment.

3 (b) In addition to any institution in which the authorities of this State may  
4 otherwise confine or order the confinement of a delinquent juvenile, such authorities  
5 may, pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on  
6 Juveniles, confine or order the confinement of a delinquent uvenile in a Compact  
7 Institution within another party state."

8 §§7Aa

9 "ARTICLE ~~57-13~~.

10 "Judicial Consent for Emergency Surgical or Medical Treatment.

11 "~~§ 7A~~Ctreatment; procedure.

12 A ~~juvenile-child~~ in need of emergency treatment under Article 1A of Chapter 90 of  
13 the North Carolina General Statutes, whose physician is barred from rendering necessary  
14 treatment by reason of parental refusal to consent to treatment, may receive ~~such~~ this  
15 treatment with court authorization under the following procedure:

- 16 (1) The physician shall sign a written statement setting out:
- 17 a. The treatment to be rendered and the emergency need for  
18 treatment; and
  - 19 b. The refusal of the parent, guardian, or person standing in loco  
20 parentis to consent to the treatment; and
  - 21 c. The impossibility of contacting a second physician for a  
22 concurring opinion on the need for treatment in time to prevent  
23 immediate harm to the ~~juvenile-child~~.
- 24 (2) Upon examining the physician's written statement prescribed in  
25 subsection (1) and finding:
- 26 a. That the statement is in accordance with this Article, and
  - 27 b. That the proposed treatment is necessary to prevent immediate  
28 harm to the ~~juvenile-child~~.

29 A judge may issue a written authorization for the proposed treatment to  
30 be rendered.

- 31 (3) In acute emergencies in which time may not permit implementation of  
32 the written procedure set out in subsections (1) and (2), a judge may, in  
33 ~~his~~ the judge's discretion, authorize treatment in person or by telephone  
34 upon receiving the oral statement of a physician satisfying the  
35 requirements of subsection (1) and upon finding that the proposed  
36 treatment is necessary to prevent immediate harm to the ~~juvenile-child~~.

- 37 (4) A judge's authorization for treatment overriding parental refusal to  
38 consent should not be given without attempting to offer the parent an  
39 opportunity to state his reasons for refusal; however, failure of the judge  
40 to hear the parent's objections shall not invalidate judicial authorization  
41 under this Article.

- 42 (5) A judge's authorization for treatment under ~~subsections (1) and (2)~~  
43 subdivisions (1) and (2) of this subsection shall be issued in duplicate.

1 One copy shall be given to the treating physician and the other copy  
2 shall be attached to the physician's written statement and filed as a  
3 juvenile proceeding in the office of the clerk of superior court.

- 4 (6) A judge's authorization for treatment under subsection (3) shall be  
5 reduced to writing as soon as possible, supported by the physician's  
6 written statement as prescribed in subsection (1) and shall be filed as  
7 prescribed in subsection (5).

8 A judge's authorization for treatment under this Article, shall have the same effect as  
9 parental consent for treatment.

10 Following a judge's authorization for treatment and after giving notice to the  
11 ~~juvenile's~~child's parent, the judge shall conduct a hearing in order to provide for payment  
12 for the treatment rendered. The judge may order the parent or other responsible parties to  
13 pay the cost of ~~such~~this treatment. If the judge finds the parent is unable to pay the cost  
14 of treatment, ~~such~~this cost shall be a charge upon the county when so ordered.

15 This Article shall operate as a remedy in addition to the provisions in G.S. ~~7A-647(3)-~~  
16 7B-1006.

17 ~~§§7A~~

18 ~~ARTICLE 58.~~

19 ~~Juvenile Law Study Commission.~~

20 ~~"§ 7A vacancies.~~

21 (a) ~~The Juvenile Law Study Commission is hereby created. It shall consist of 18~~  
22 ~~voting members, 14 to be appointed by the Governor, two by the President Pro Tempore~~  
23 ~~of the Senate, and two by the Speaker of the House of Representatives. The members~~  
24 ~~appointed by the President Pro Tempore of the Senate shall be members of the Senate at~~  
25 ~~the time of their appointment; the members appointed by the Speaker of the House of~~  
26 ~~Representatives shall be members of the House of Representatives at the time of their~~  
27 ~~appointment. Of the members appointed by the Governor, two shall be district court~~  
28 ~~judges, one from an urban district, one from a rural. Three shall be a chief court~~  
29 ~~counselor and two court counselors representing the Intake Division, one from an urban~~  
30 ~~district, one from a rural. Two shall be from Social Services, one from the State level and~~  
31 ~~one from the county. One shall be from the Division of Youth Services. One shall be~~  
32 ~~from a local facility of Community Based Alternatives. One shall be a youth member~~  
33 ~~representing the youth of the State who shall be a person under the age of 21 at the time~~  
34 ~~of the appointment, who shall serve for one year. One shall be a State or local~~  
35 ~~representative of the Guardian Ad Litem Services of the Administrative Office of the~~  
36 ~~Courts, who shall serve for two years. One shall be from Law Enforcement. One shall~~  
37 ~~be from the North Carolina Juvenile Detention Association. One shall be the member of~~  
38 ~~the Juvenile Justice Planning Committee of the Governor's Crime Commission~~  
39 ~~recommended for appointment by the Juvenile Justice Planning Committee and shall~~  
40 ~~serve for three years. The district court judges and the Social Services members shall~~  
41 ~~serve for three years. The chief court counselor and the court counselors shall serve for~~  
42 ~~two years. The representatives from the Division of Youth Services, Law Enforcement,~~  
43 ~~Community Based Alternatives, and the Juvenile Detention Association shall serve for~~



1 one year. The legislative members shall serve for two year terms. All initial terms shall  
2 begin July 1, 1980.

3 (b) A vacancy in membership shall be filled by the appointing authority who made  
4 the initial appointment. When the members' terms expire, their successors shall serve for  
5 the same length of time their predecessors served. A member whose term expires may be  
6 reappointed. If, when a term expires, the appointing authority has not filled the vacancy,  
7 the member whose term has expired shall continue to serve until the appointment is  
8 made."

9 ~~"§ 7Ao It shall be the duty of the Commission to make continuing studies of the law,  
10 both statutory and judicial, as it pertains to juveniles, of agency services  
11 available to juveniles and their families, and of any other matters the  
12 Commission identifies as being of importance to State consideration of  
13 juveniles. The Commission shall report to the Governor and the General  
14 Assembly on or before the first day of each full session. The report shall be  
15 in writing and shall set forth the Commission's findings, conclusions, and  
16 recommendations including any proposed legislation."~~

17 ~~"§ 7A\* The Governor shall appoint a chairman. The term of the chairman is two  
18 years and he may be reappointed. The Commission shall meet at such  
19 times and places as the chairman shall designate. The facilities of the State  
20 Legislative Building shall be available to the Commission, subject to  
21 approval of the Legislative Services Commission. Legislative members of  
22 the Commission shall be reimbursed for subsistence and travel expenses at  
23 the rates set out in G.S. 120-3.1. Members of the Commission who are not  
24 officers or employees of the State shall receive compensation and  
25 reimbursement for travel and subsistence expenses at the rates specified  
26 in G.S. 138-5. Members of the Commission who are officers or employees  
27 of the State shall receive reimbursement for travel and subsistence  
28 expenses at the rate set out in G.S. 138-6."~~

29 ~~§-7Aâ" §-7Ad The Commission may solicit, employ, or contract for technical  
30 assistance and clerical assistance, and may purchase or contract for the  
31 materials and services it needs. Subject to the approval of the Legislative  
32 Services Commission, the staff resources of the Legislative Services  
33 Commission shall be available to this Commission without cost except for  
34 travel, subsistence, supplies, and materials."~~

35  
36 ARTICLE 59.  
37

38 ~~§§7A-Article 14. Reserved for future codification.~~"  
39

40 PART II. REWRITING OF THE LAW ON TERMINATION OF PARENTAL  
41 RIGHTS, OF CERTAIN PROVISIONS OF THE CHILD FATALITY TASK FORCE  
42 LAW, AND OF THE ADOPTION LAW.  
43

1 Section 2. Article 24B of Chapter 7A of the General Statutes reads as  
2 rewritten:

3 "ARTICLE 24B.

4 "Termination of Parental Rights.

5 **"§ 7A-289.22. Legislative intent; construction of Article.**

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

- 8 (1) The general purpose of this Article is to provide judicial procedures for  
9 terminating the legal relationship between a child and ~~his or her the~~  
10 child's biological or legal parents when ~~such these~~ parents have  
11 demonstrated that they will not provide the degree of care which  
12 promotes the healthy and orderly physical and emotional well-being of  
13 the child.
- 14 (2) It is the further purpose of this Article to recognize the necessity for any  
15 child to have a permanent plan of care at the earliest possible age, while  
16 at the same time recognizing the need to protect all children from the  
17 unnecessary severance of a relationship with biological or legal parents.
- 18 (3) Action which is in the best interests of the child should be taken in all  
19 cases where the interests of the child and those of ~~his or her the child's~~  
20 parents or other persons are in conflict.
- 21 (4) This Article shall not be used to circumvent the provisions of Chapter  
22 50A, the Uniform Child Custody Jurisdiction Act.

23 **"§ 7A-289.23. Jurisdiction.**

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

- 34 (1) ~~Where it is alleged that a parent's rights should be terminated pursuant~~  
35 ~~to G.S. 7A-289.32(7); or~~
- 36 (2) ~~Where the parent is under the age of 18 years.~~

37 ~~The fees of the guardian ad litem shall be borne by the Administrative Office of the~~  
38 ~~Courts when the court finds that the respondent is indigent. In other cases the fees of the~~  
39 ~~court appointed guardian ad litem shall be a proper charge against the respondent, if the~~  
40 ~~respondent does not secure private legal counsel. Provided that, before exercising~~  
41 ~~jurisdiction under this Article the court shall find that it would have jurisdiction to make a~~  
42 ~~child custody determination under the provisions of G.S. 50A-3. Provided further, that~~

1 the clerk of superior court shall have jurisdiction for adoptions under the provisions of  
2 G.S. 48-2-100 and Chapter 48 of the General Statutes generally.

3 **"§ 7A-289.23A. Pending child abuse, neglect and dependency proceedings.**

4 In any termination of parental of parental rights proceeding in which there is a  
5 pending child abuse, neglect or dependency proceeding for the same child, the petition  
6 for termination of parental rights may be filed as a motion in the pending child abuse,  
7 neglect and dependency proceeding. Any parent who has been served in the pending  
8 child abuse, neglect, or dependency action in accordance with G.S. 7A-565 shall be  
9 served with the petition to terminate parental rights in accordance with G.S. 1A-1, Rule 5.

10 **"§ 7A-289.23B. Parent's right to and appointment of counsel.**

11 (a) The parent has the right to counsel and to appointed counsel in cases of  
12 indigency unless the parent waives the right. The fees of appointed counsel shall be  
13 borne by the Administrative Office of the Courts.

14 (b) When a petition to terminate parental rights is filed as a motion in a pending  
15 child abuse, neglect, or dependency action, any counsel representing a respondent parent  
16 pursuant to G.S. 7A-587 shall continue this representation through the termination of  
17 parental rights proceeding.

18 (c) In addition to the right to appointed counsel set forth above, a guardian ad  
19 litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to  
20 represent a parent in the following cases:

21 (1) Where it is alleged that a parent's rights should be terminated pursuant  
22 to G.S. 7A-289.32(7); or

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

24 The fees of the guardian ad litem shall be borne by the Administrative Office of the  
25 Courts when the court finds that the respondent is indigent. In other cases the fees of the  
26 court appointed guardian ad litem shall be a proper charge against the respondent, if the  
27 respondent does not secure private legal counsel.

28 **"§ 7A-289.24. Who may petition.**

29 (a) A petition to terminate the parental rights of either or both parents to ~~his, her,~~  
30 ~~or their~~ the minor child may only be filed by:

31 (1) Either parent seeking termination of the right of the other parent; or

32 (2) Any person who has been judicially appointed as the guardian of the  
33 person of the child; or

34 (3) Any county department of social services, consolidated county human  
35 services agency, or licensed child-placing agency to whom custody of  
36 the child has been given by a court of competent jurisdiction; or

37 (4) Any county department of social services, consolidated county human  
38 services agency, or licensed child-placing agency to which the child has  
39 been surrendered for adoption by one of the parents or by the guardian  
40 of the person of ~~such~~ the child, pursuant to G.S. 48-9(a)(1); or

41 (5) Any person with whom the child has resided for a continuous period of  
42 two years or more next preceding the filing of the petition; or

1 (6) Any guardian ad litem appointed to represent the minor child pursuant  
2 to G.S. ~~7A-586, 7B-601~~ who has not been relieved of this responsibility  
3 and who has served in this capacity for at least one continuous year;  
4 responsibility; or

5 (7) Any person who has filed a petition for adoption pursuant to Chapter 48  
6 of the General Statutes.

7 (b) Any person or agency having the authority to file a petition pursuant to 7A-  
8 289.24(a) may intervene in a pending abuse, neglect, or dependency proceeding for the  
9 purpose of filing a petition to terminate parental rights.

10 **"§ 7A-289.25. Petition.**

11 The petition shall be verified by the petitioner and shall be entitled "In re (Last name  
12 of child), a minor child"; and shall set forth ~~such~~those of the following facts as are  
13 known; and with respect to the facts which are unknown the petitioner shall so state:

14 (1) The name of the child as it appears on the child's birth certificate, the  
15 date and place of birth, and the county where the child is presently  
16 residing.

17 (2) The name and address of the petitioner and facts sufficient to identify  
18 the petitioner as one entitled to petition under G.S. 7A-289.24.

19 (3) The name and address of the parents of the child. If the name or address  
20 of one or both parents is unknown to the petitioner, the petitioner shall  
21 set forth with particularity the petitioner's efforts to ascertain the identity  
22 or whereabouts of the parent or parents. ~~Such~~This information may be  
23 contained in an affidavit attached to the petition and incorporated  
24 therein by reference.

25 (4) The name and address of any person appointed as guardian of the  
26 person of the child pursuant to the provisions of Chapter 35A of the  
27 General Statutes, or of G.S. 7A-585.

28 (5) The name and address of any person or agency to whom custody of the  
29 child has been given by a court of this or any other state; and a copy of  
30 ~~such~~this custody order shall be attached to the petition.

31 (6) Facts which are sufficient to warrant a determination that one or more of  
32 the grounds for terminating parental rights exist.

33 (7) That the petition has not been filed to circumvent the provisions of  
34 Chapter 50A, the Uniform Child Custody Jurisdiction Act.

35 **"§ 7A-289.26. Preliminary hearing; unknown parent.**

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

41 (b) The court may, in its discretion, inquire of any known parent of the child  
42 concerning the identity of the unknown parent and may appoint a guardian ad litem for  
43 the unknown parent to conduct a diligent search for the parent. Should the court ascertain

1 the name or identity of the parent, it shall enter a finding to that effect; and ~~such~~the  
 2 parent shall be summoned to appear in accordance with G.S. 7A- 289.27.

3 (c) Notice of the preliminary hearing need be given only to the petitioner who  
 4 shall appear at the hearing; but the court may cause summons to be issued to any person  
 5 directing ~~him~~that person to appear and testify.

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

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

14 (2) Be directed to "the father (mother) (father and mother) of a male  
 15 (female) child born on or about .....in  
 16 (date)

17 .....County, .....,

18 (city)

19 ....., respondent";

20 (State)

21 (3) Designate the docket number and title of the case (the court may direct  
 22 the actual name of the title be eliminated and the words "In Re Doe"  
 23 substituted therefor);

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

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

30 (6) State that the respondent's parental rights to the child will be terminated  
 31 upon failure to answer the petition within the time prescribed.

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

34 (e) The court shall issue the order required by G.S. 7A-289.26(b) and (d) within 30  
 35 days from the date of the preliminary hearing unless the court shall determine that  
 36 additional time for investigation is required.

37 (f) Upon the failure of the parent served by publication pursuant to G.S. 7A-  
 38 289.26(d) to answer the petition within the time prescribed, the court shall issue an order  
 39 terminating all parental rights of the unknown parent.

40 **"§ 7A-289.27. Issuance of summons.**

41 (a) Except as provided in ~~G.S. 7A-289.26~~, G.S. 7A-289.26 and G.S. 7A-289.23A,  
 42 upon the filing of the petition, the court shall cause a summons to be issued, directed to

1 the following persons or agency, not otherwise a party petitioner, who shall be named as  
2 respondents:

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

15 Provided, no summons need be directed to or served upon any parent who has  
16 previously surrendered the child to a county department of social services or licensed  
17 child-placing agency, nor to any parent who has consented to the adoption of the child by  
18 the ~~petitioner.~~ petitioner, nor to any parent or guardian who has been served pursuant to  
19 G.S. 7B-408 when the petition is being filed as a motion in the cause in a pending child  
20 abuse, neglect, or dependency proceeding pursuant to G.S. 289.23A. The summons shall  
21 notify the respondents to file a written answer within 30 days after service of the  
22 summons and petition. Service of the summons shall be completed as provided under the  
23 procedures established by G.S. 1A-1, Rule 4(j); but the parent of the child shall not be  
24 deemed to be under disability even though ~~such~~ this parent is a minor.

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

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

41 (c) If a county department of social services that is not otherwise a party petitioner  
42 is served with a petition alleging that a parent's parental rights should be terminated

1 pursuant to G.S. 7A-289.32, the department shall file a written answer and shall be  
2 considered a party to the proceeding.

3 **"§ 7A-289.28. Failure of respondents to ~~answer-~~ answer or reply.**

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

13 **"§ 7A-289.29. Answer of respondents.**

14 (a) Any respondent may file a ~~written answer-responsive pleading~~ to the petition.  
15 The ~~answer-responsive pleading~~ shall admit or deny the allegations of the petition and  
16 shall set forth the name and address of the answering respondent or ~~his or her~~ the  
17 respondent's attorney.

18 (b) If ~~an answer-a responsive pleading~~ denies any material allegation of the  
19 petition, the court shall appoint a guardian ad litem for the child to represent the best  
20 interests of the child, unless the petition was filed by the guardian ad litem pursuant to  
21 ~~G.S. 7A-289.24(6)-G.S. 7A-289.24(6)~~ or unless a guardian ad litem has been appointed  
22 pursuant to G.S. 7B-601. A licensed attorney shall be appointed to assist those guardians  
23 ad litem who are not attorneys licensed to practice in North Carolina. The appointment,  
24 duties and payment of the guardian ad litem shall be the same as in G.S. ~~7A-586 and 7A-~~  
25 ~~588-7B-601 and G.S. 7B-603.~~ The court shall conduct a special hearing after notice of  
26 not less than 10 days nor more than 30 days to the petitioner, the answering  
27 respondent(s), and the guardian ad litem for the child, to determine the issues raised by  
28 the petition and answer(s). Notice of the hearing shall be deemed to have been given  
29 upon the depositing thereof in the United States mail, first class postage prepaid, and  
30 addressed to the petitioner, respondent, and guardian ad litem or their counsel of record,  
31 at the addresses appearing in the petition and responsive pleading.

32 (c) In proceedings under this Article, the appointment of a guardian ad litem shall  
33 not be required except, as provided above, in cases in which ~~an answer-a responsive~~  
34 pleading is filed denying material allegations, or as required under ~~G.S. 7A-289.23; G.S.~~  
35 ~~7A-289.23,~~ or in cases where the petition to terminate parental rights is a motion in the  
36 cause in a pending child abuse, neglect, or dependency proceeding and a guardian ad  
37 litem has been appointed pursuant to G.S. 7B-601, but the court may, in its discretion,  
38 appoint a guardian ad litem for a child, either before or after determining the existence of  
39 grounds for termination of parental rights, in order to assist the court in determining the  
40 best interests of the child.

41 (d) If a guardian ad litem has previously been appointed for the child under G.S.  
42 ~~7A-586, 7B-601,~~ and the appointment of a guardian ad litem could also be made under  
43 ~~this section,~~ the guardian ad litem appointed under G.S. ~~7A-586, 7B-601,~~ and any

1 attorney appointed to assist that guardian, shall also represent the child in all proceedings  
2 under this Article and shall have the duties and payment of a guardian ad litem appointed  
3 under this section, ~~unless the court determines that the best interests of the child require~~  
4 ~~otherwise.~~ section.

5 **"§ 7A-289.29A. Prehearing conference.**

6 (a) The court shall convene a prehearing conference no more than 30 days after  
7 the date a responsive pleading is due, as set forth in G.S. 7A-289.28.

8 (b) At the conference:

9 (1) The court shall review the adequacy of notice and service of process;

10 (2) The court shall advise unrepresented parties of their right to counsel and  
11 to appointment of counsel. If any party requires counsel, the court may  
12 reconvene the conference to a later date;

13 (3) The court shall establish a discovery plan and timetable;

14 (4) The court shall hear prehearing motions if reasonable advance notice  
15 has been given to the parties and the court; and

16 (5) The court shall estimate the length of the hearing and set the date of the  
17 hearing, which shall be held within 60 days of this conference unless the  
18 court makes specific findings as to why the hearing cannot be held  
19 within 60 days.

20 **"§ 7A-289.30. Adjudicatory hearing on termination.**

21 (a) The hearing on the termination of parental rights shall be conducted by the  
22 district court sitting without a jury. Reporting of the hearing shall be as provided by G.S.  
23 7A-198 for reporting civil trials.

24 (a1) The court shall inquire whether the child's parents are present at the hearing  
25 and, if so, whether they are represented by counsel. If the parents are not represented by  
26 counsel, the court shall inquire whether the parents desire counsel but are indigent. In the  
27 event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are  
28 unable to obtain counsel to represent them, the court shall appoint counsel to represent  
29 them. The court shall grant the parents ~~such an~~ the extension of time ~~as is~~ reasonable  
30 to permit their appointed counsel to prepare their defense to the termination petition. In the  
31 event that the parents do not desire counsel and are present at the hearing, the court shall  
32 examine each parent and make findings of fact sufficient to show that the waivers were  
33 knowing and voluntary. This examination shall be reported as provided in G.S. 7A- 198.

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

39 (c) The court may for good cause shown continue the hearing for ~~such the~~ time as  
40 ~~is~~ required for receiving additional evidence, any reports or assessments which the court  
41 has requested, or any other information needed in the best interest of the child.



1 (d) The court shall take evidence, find the facts, and shall adjudicate the existence  
2 or nonexistence of any of the circumstances set forth in G.S. 7A-289.32 which authorize  
3 the termination of parental rights of the respondent.

4 (e) ~~All findings of fact shall be based on~~ The burden shall be on the petitioner to  
5 prove the facts justifying the termination by clear, cogent, and convincing evidence. No  
6 ~~husband-wife or physician-patient privilege-privilege except the attorney-client privilege~~  
7 shall be grounds for excluding any evidence regarding the existence or nonexistence of  
8 any circumstance authorizing the termination of parental ~~rights.~~ rights, both as the  
9 privilege relates to the competency of the witness and to the exclusion of confidential  
10 communications.

11 **"§ 7A-289.31. Disposition.**

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

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

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

25 ~~(c1) Repealed by Session Laws 1983, c. 607, s. 3, effective October 1, 1983.~~

26 ~~(c2)~~ (d) Counsel for the petitioner shall serve a copy of the termination of parental  
27 rights order upon the guardian ad litem for the child, if any, and upon the child if ~~he~~ the  
28 child is 12 years of age or older.

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

30 **"§ 7A-289.32. Grounds for terminating parental rights.**

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

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

34 ~~(2)~~ (1) The parent has abused or neglected the child. The child shall be deemed  
35 to be abused or neglected if the court finds the child to be an abused  
36 child within the meaning of G.S. ~~7A-517(1), 7B-101,~~ or a neglected  
37 child within the meaning of G.S. ~~7A-517(21), 7B-101.~~

38 (3) The parent has willfully left the child in foster care or placement outside  
39 the home for more than 12 months without showing to the satisfaction  
40 of the court that reasonable progress under the circumstances has been  
41 made within 12 months in correcting those conditions which led to the  
42 removal of the child. Provided, however, that no parental rights shall be

- 1 terminated for the sole reason that the parents are unable to care for the  
2 child on account of their poverty.
- 3 ~~(3a) The burden in such proceedings shall be upon the petitioner to prove the~~  
4 ~~facts justifying such termination by clear and convincing evidence.~~
- 5 (4) The child has been placed in the custody of a county Department of  
6 Social Services, a licensed child-placing agency, a child-caring  
7 institution, or a foster home, and the parent, for a continuous period of  
8 six months next preceding the filing of the petition, has willfully failed  
9 for ~~such~~ this period to pay a reasonable portion of the cost of care for  
10 the child although physically and financially able to do so.
- 11 (5) One parent has been awarded custody of the child by judicial decree, or  
12 has custody by agreement of the parents, and the other parent whose  
13 parental rights are sought to be terminated has for a period of one year  
14 or more next preceding the filing of the petition willfully failed without  
15 justification to pay for the care, support, and education of the child, as  
16 required by ~~said~~ the decree or custody agreement.
- 17 (6) The father of a child born out of wedlock has not prior to the filing of a  
18 petition to terminate ~~his~~ the father's parental rights:
- 19 a. ~~Establish(ed)~~ Established paternity judicially or by affidavit  
20 which has been filed in a central registry maintained by the  
21 Department of Health and Human Services; provided, the court  
22 shall inquire of the Department of Health and Human Services as  
23 to whether ~~such~~ an affidavit has been so filed and shall  
24 incorporate into the case record the Department's certified reply;  
25 or
- 26 b. Legitimated the child pursuant to provisions of G.S. 49-10, or  
27 filed a petition for this specific purpose; or
- 28 c. Legitimated the child by marriage to the mother of the child; or
- 29 d. Provided substantial financial support or consistent care with  
30 respect to the ~~child and mother.~~ child.
- 31 ~~(7) That the~~ The parent is incapable of providing for the proper care and  
32 supervision of the child, such that the child is a dependent child within  
33 the meaning of G.S. ~~7A-517(13), 7B-101~~, and that there is a reasonable  
34 probability that ~~such~~ this incapability will continue for the foreseeable  
35 future. Incapability under this subdivision may be the result of substance  
36 abuse, mental retardation, mental illness, organic brain syndrome, or  
37 any other similar cause or condition.
- 38 (8) The parent has willfully abandoned the child for at least six consecutive  
39 months immediately preceding the filing of the petition. For the purpose  
40 of this subdivision, a child may be willfully abandoned by ~~his or her~~ the  
41 child's natural father if the mother of the child had been willfully  
42 abandoned by and was living separate and apart from the father at the  
43 time of the child's birth, although the father may not have known of

1 ~~such~~ the birth; but in any event the child must be over the age of three  
2 months at the time of the filing of the petition.

3 (9) The parent has committed murder or voluntary manslaughter of another  
4 child of the parent or has aided or abetted such a murder or voluntary  
5 manslaughter; has aided or abetted in committing, or attempted,  
6 conspired, or solicited to commit, the murder or voluntary manslaughter  
7 of the child or another child of the parent; or has committed felony  
8 assault that results in serious bodily injury to the child or another child  
9 of the parent.

10 (10) The parent is imprisoned when the petition is filed and is unlikely to be  
11 released for a period of five or more years from the date the petition is  
12 filed.

13 (11) A court of competent jurisdiction has terminated parental rights with  
14 respect to another child of the parent and the parent lacks the ability or  
15 the willingness to establish a safe home.

16 **"§ 7A-289.33. Effects of termination order.**

17 An order terminating the parental rights completely and permanently terminates all  
18 rights and obligations of the parent to the child and of the child to the parent, arising from  
19 the parental relationship, except that the child's right of inheritance from ~~his or her~~ the  
20 parent shall not terminate until ~~such~~ the time ~~as~~ that a final order of adoption is issued.  
21 ~~Such~~ The parent is not thereafter entitled to notice of proceedings to adopt the child and  
22 may not object thereto or otherwise participate therein.

23 (1) If the child had been placed in the custody of or released for adoption by  
24 one parent to, a county department of social services or licensed child-  
25 placing agency and is in the custody of the agency at the time of the  
26 filing of the petition, including a petition filed pursuant to G.S. 7A-  
27 289.24(6), that agency shall, upon entry of the order terminating  
28 parental rights, acquire all of the rights for placement of the child as the  
29 agency would have acquired had the parent whose rights are terminated  
30 released the child to that agency pursuant to the provisions of Part 7 of  
31 Article 3 of Chapter 48 of the General Statutes, including the right to  
32 consent to the adoption of the child.

33 (2) Except as provided in subdivision (1) above, upon entering an order  
34 terminating the parental rights of one or both parents, the court may  
35 place the child in the custody of the petitioner, or some other suitable  
36 person, or in the custody of the Department of Social Services or  
37 licensed child-placing agency, as may appear to be in the best interest of  
38 the child.

39 **"§ 7A-289.34. Appeals; modification of order after affirmation.**

40 Any child, parent, guardian, ~~custodian~~ custodian, or agency who is a party to a  
41 proceeding under this Article may appeal from an adjudication or any order of disposition  
42 to the Court of Appeals, provided that notice of appeal is given in open court at the time  
43 of the hearing or in writing within 10 days after the hearing. Pending disposition of an

1 appeal, the court may enter ~~such a~~ temporary order affecting the custody or placement of  
2 the child ~~as that~~ the court finds to be in the best interest of the child or the best interest of  
3 the State. Upon the affirmation of the order of adjudication or disposition of the district  
4 court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of  
5 such an appeal, the district court ~~shall have authority to~~ may modify or alter its original  
6 order of adjudication or disposition as the court finds to be in the best interest of the ~~child~~  
7 child. This modification shall ~~to~~ reflect any adjustment made by the child or change in  
8 circumstances during the period of time the case on appeal was ~~pending,~~ pending.  
9 ~~provided that if such~~ If the modifying order ~~be~~ is entered ex parte, the court shall give  
10 notice to interested parties to show cause, if any there be, within 10 days thereafter, as to  
11 why ~~said the~~ modifying order should be vacated or altered.

12 **§ 7A\*effective October 1, 1983." "**

13 Section 3. (a) G.S. 143-576.1 reads as rewritten:

14 **"§ 143-576.1. Community Child Protection Teams; Child Fatality Prevention**  
15 **Teams; creation and duties.**

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

18 (1) Review, in accordance with the procedures established by the director of  
19 the county department of social services under G.S. 143-576.4:

20 a. Selected active cases in which children are being served by child  
21 protective services; ~~and~~

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

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

27 2. The child or the child's family was a recipient of child  
28 protective services within the previous 12 ~~months.~~  
29 months;

30 c. Cases in which the director of the department of social services  
31 has decided not to file a petition and the person making the report  
32 has appealed the director's decision in accordance with G.S. 7B-  
33 305. The Team shall review the case and submit a report and  
34 recommendations to the District Attorney within 20 days of the  
35 appeal by the person reporting. The Team may recommend that  
36 the District Attorney:

37 1. Affirm the case decision of the director not to file a  
38 petition;

39 2. Request the appropriate law enforcement agency to  
40 investigate the allegations; or

41 3. Direct the director to file a petition;

- 1           d.     Selected cases when the second or subsequent substantiated  
2               report of abuse, neglect, or dependency occurs without the  
3               director's filing a petition;  
4           e.     Selected cases when the department of social services has  
5               substantiated a report of abuse, neglect, or dependency and has  
6               provided services for a period longer than 12 months from the  
7               time the investigative assessment was completed, without the  
8               director's filing a petition; and  
9           f.     Selected cases when the county department of social services has  
10            not completed the investigative assessment within the 30 days of  
11            the complaint, as required by G.S. 7A-544.1; and

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

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

18       (b)   Any Community Child Protection Team that determines it will not review  
19 additional child fatalities shall notify the Team Coordinator. In accordance with the plan  
20 established under G.S. 143-576.3(1), a separate Child Fatality Prevention Team shall be  
21 established in that county to conduct these reviews. Each Child Fatality Prevention Team  
22 shall:

- 23           (1)   Review the records of all cases of additional child fatalities.  
24           (2)   Submit annually to the board of county commissioners  
25               recommendations, if any, and advocate for system improvements and  
26               needed resources where gaps and deficiencies may exist.  
27           (3)   Report findings in connection with these reviews to the Team  
28               Coordinator.

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

- 30           (1)   A listing of the system problems identified through the review process,  
31               and recommendations for preventive actions;  
32           (2)   Any changes that resulted from the recommendations made by the Local  
33               Team;  
34           (3)   Information about each death reviewed; and  
35           (4)   Any additional information requested by the Team Coordinator."  
36           (b)   G.S. 143-576.2 reads as rewritten:

37 **"§ 143-576.2. Local Teams; composition.**

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

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

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

19 (b1) In addition, a Local Team that reviews the records of additional child fatalities  
20 shall include the following four additional members:

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

31 (b2) The Team Coordinator shall serve as an ex officio member of each Local Team  
32 that reviews the records of additional child fatalities. The board of county commissioners  
33 may appoint a maximum of five additional members to represent county agencies or the  
34 community at large to serve on any Local Team. Vacancies on a Local Team shall be  
35 filled by the original appointing authority.

36 (c) Each Local Team shall elect a member to serve as chair at the Team's pleasure.  
37 Neither the director of the local department of social services nor any member of the  
38 director's staff shall serve as the chair of the Team.

39 (d) Each Local Team shall meet at least ~~four~~ six times each year.

40 (e) The director of the local department of social services shall call the first  
41 meeting of the Community Child Protection Team. The director of the local department  
42 of health, upon consultation with the Team Coordinator, shall call the first meeting of the  
43 Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule

1 the time and place of meetings, in consultation with these directors, and shall prepare the  
2 agenda. The chair shall schedule Team meetings no less often than once ~~per quarter~~ every  
3 other month and often enough to allow adequate review of the cases selected for review.  
4 Within three months of election, the chair shall participate in the appropriate training  
5 developed under this Article."

6 Section 4. (a) G.S. 48-1-101 is amended by inserting a new subdivision to read:

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

26 (b) G.S. 48-3-203 is amended by inserting a new subsection to read:

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

33 (c) G.S. 48-3-303(d) reads as rewritten:

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

41 (d) Chapter 48 of the General Statutes is amended by adding a new section  
42 to read:

1 "§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive  
2 parents seeking to adopt a minor who is in the custody or placement  
3 responsibility of a county department of social services.

4 (a) Effective January 1, 1999, the Department shall ensure that the criminal  
5 histories of all prospective adoptive parents seeking to adopt a minor who is in the  
6 custody or placement responsibility of a county department of social services are checked  
7 prior to placement and, based on the criminal history, a determination is made as to the  
8 individual's fitness to have responsibility for the safety and well-being of children. The  
9 Department shall ensure that, as of the effective date of this act, all prospective adoptive  
10 parents seeking to adopt a minor who is in the custody or placement responsibility of a  
11 county department of social services are checked prior to placement for county, State,  
12 and federal criminal histories.

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

17 (c) The Department of Justice shall provide to the Department of Health and  
18 Human Services the criminal history of such a prospective adoptive parent obtained from  
19 the State and National Repositories of Criminal Histories as requested by the Department.  
20 The Department shall provide to the Department of Justice, along with the request, the  
21 fingerprints of the prospective adoptive parent to be checked, any additional information  
22 required by the Department of Justice, and a form consenting to the check of the criminal  
23 record and to the use of fingerprints and other identifying information required by the  
24 State or National Repositories signed by the individual to be checked. The fingerprints of  
25 the prospective adoptive parent shall be forwarded to the State Bureau of Investigation  
26 for a search of the State's criminal history record file, and the State Bureau of  
27 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for  
28 a national criminal history record check.

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

32  
33 **'NOTICE**

34 **MANDATORY CRIMINAL HISTORY CHECK**

35 NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY  
36 CHECK BE CONDUCTED PRIOR TO PLACEMENT ON PROSPECTIVE  
37 ADOPTIVE PARENTS SEEKING TO ADOPT A MINOR WHO IS IN THE  
38 CUSTODY OR PLACEMENT RESPONSIBILITY OF A COUNTY  
39 DEPARTMENT OF SOCIAL SERVICES.

40  
41 'Criminal history' includes any county, state, and federal convictions or  
42 pending indictments of any of the following crimes: the following Articles of  
43 Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and



1 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction;  
2 Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device  
3 or Material; Article 26, Offenses Against Public Morality and Decency; Article  
4 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the  
5 Family; and Article 59, Public Intoxication; violation of the North Carolina  
6 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and  
7 alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-  
8 302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-  
9 138.5; or similar crimes under federal law or under the laws of other states. Your  
10 fingerprints will be used to check the criminal history records of the State Bureau  
11 of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

12  
13 If it is determined, based on your criminal history, that you are unfit to have  
14 responsibility for the safety and well-being of children, you shall have the  
15 opportunity to complete, or challenge the accuracy of, the information contained  
16 in the SBI or FBI identification records.

17  
18 If you are denied a favorable preplacement assessment by a county  
19 department of social services as a result of the criminal history check, you may  
20 request a review of the assessment pursuant G.S. 48-3-308(a).

21  
22 Any prospective adoptive parent who intentionally falsifies any information  
23 required to be furnished to conduct the criminal history is guilty of a Class 2  
24 misdemeanor.'

25  
26 Refusal to consent to a criminal history check is grounds for the issuance by a county  
27 department of social services of an unfavorable preplacement assessment. Any  
28 prospective adoptive parent who intentionally falsifies any information required to be  
29 furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

30 (e) The Department shall notify the prospective adoptive parent's supervising  
31 county department of social services of the results of the criminal history check in  
32 accordance with the federal and state law regulating the dissemination of the contents of  
33 the criminal history file. The Department shall not release nor disclose any portion of the  
34 prospective adoptive parent's criminal history to the prospective adoptive parent. The  
35 Department shall also ensure that the prospective adoptive parent is notified of the  
36 prospective adoptive parent's right to review the criminal history information, the  
37 procedure for completing or challenging the accuracy of the criminal history, and the  
38 prospective adoptive parent's right to contest the preplacement assessment of the county  
39 department of social services.

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

1 (f) All the information that the Department receives through the checking of the  
2 criminal history is privileged information and is not a public record but is for the  
3 exclusive use of the Department and those persons authorized under this section to  
4 receive the information. The Department may destroy the information after it is used for  
5 the purposes authorized by this section after one calendar year.

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

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

22 (e) Chapter 114 of the General Statutes is amended by adding a new section  
23 to read:

24 "**§ 114-4-19.7. Criminal record checks prior to placement of prospective adoptive**  
25 **parents seeking to adopt a minor who is in the custody or placement**  
26 **responsibility of a county department of social services.**

27 The Department of Justice may provide to the Division of Social Services,  
28 Department of Health and Human Services, the criminal history from the State and  
29 National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The  
30 Division shall provide to the Department of Justice, along with the request, the  
31 fingerprints of the prospective adoptive parent seeking to adopt a minor who is in the  
32 custody or placement responsibility of a county department of social services, any  
33 additional information required by the Department of Justice, and a form consenting to  
34 the check of the criminal record and to the use of fingerprints and other identifying  
35 information required by the State or National Repositories signed by the individual to be  
36 checked. The fingerprints of the prospective adoptive parent shall be forwarded to the  
37 State Bureau of Investigation for a search of the State's criminal history record file, and  
38 the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau  
39 of Investigation for a national criminal history record check. The Division shall keep all  
40 information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The  
41 Department of Justice shall charge a reasonable fee only for conducting the checks of the  
42 national criminal history records authorized by this section."

1 **PART III. RECODIFICATION AND REWRITING OF THE LAW OF**  
2 **UNDISCIPLINED AND DELINQUENT JUVENILES, AS RECOMMENDED BY**  
3 **THE GOVERNOR'S COMMISSION ON JUVENILE CRIME AND JUSTICE,**  
4 **AND OF THE EMANCIPATION LAW, WHICH APPLIES BOTH TO ABUSED,**  
5 **NEGLECTED, AND DEPENDENT CHILDREN AND TO UNDISCIPLINED AND**  
6 **DELINQUENT JUVENILES.**

7  
8 Section 5. Chapter 7B of the General Statutes, created in Section 1 of this act  
9 and titled "The Juvenile Code", is amended by adding two new Subchapters to read:

10 **"SUBCHAPTER II. UNDISCIPLINED AND DELINQUENT JUVENILES.**

11 **"ARTICLE 15.**

12 **"Purposes; Definitions.**

13 **"§ 7B-1500. Purpose.**

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

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

31 **"§ 7B-1501. Definitions.**

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

- 34 (1) Administrator. – The Administrator of the Division of Juvenile Services  
35 in the Administrative Office of the Courts who is responsible for  
36 planning, organizing, and administering a statewide system of juvenile  
37 probation and post-release supervision as authorized by this Subchapter.  
38 (2) Chief court counselor. – The person responsible for administration and  
39 supervision of juvenile intake, probation, and post-release supervision in  
40 each judicial district, operating under the supervision of the  
41 Administrator of the Division of Juvenile Services.  
42 (3) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy  
43 clerk.

- 1           (4)   Community-based program. – A program providing nonresidential or  
2           residential treatment to a juvenile under the jurisdiction of the juvenile  
3           court in the community where the juvenile's family lives. A  
4           community-based program may include specialized foster care, family  
5           counseling, shelter care, and other appropriate treatment.
- 6           (5)   Court. – The district court division of the General Court of Justice.
- 7           (6)   Court counselor. – A person responsible for probation and post-release  
8           supervision to juveniles under the supervision of the chief court  
9           counselor.
- 10          (7)   Custodian. – The person or agency that has been awarded legal custody  
11          of a juvenile by a court.
- 12          (8)   Delinquent juvenile. – Any juvenile who, while less than 16 years of  
13          age but at least 6 years of age, commits a crime or infraction under State  
14          law or under an ordinance of local government, including violation of  
15          the motor vehicle laws.
- 16          (9)   Department. – The North Carolina Department of Health and Human  
17          Services.
- 18          (10)   Detention. – The secure confinement of a juvenile pursuant to a court  
19          order.
- 20          (11)   Detention facility. – A facility authorized to provide secure confinement  
21          and care for juveniles. Detention facilities include both State and  
22          locally administered detention homes, centers, and facilities.
- 23          (12)   Director of the Division of Youth Services. – The person responsible for  
24          the supervision of the administration of institutional and detention  
25          services.
- 26          (13)   District. – Any district court district as established by G.S. 7A-133.
- 27          (14)   Division of Juvenile Services. – The Division of Juvenile Services of  
28          the Administrative Office of the Courts.
- 29          (15)   Division of Youth Services. – The Division of Youth Services of the  
30          Department of Health and Human Services.
- 31          (16)   Extended jurisdiction. – Juvenile court jurisdiction, pursuant to a court  
32          order, over a person who is at least 18 years of age and has not reached  
33          the person's nineteenth birthday.
- 34          (17)   Holdover facility. – A place in a jail which has been approved by the  
35          Department of Health and Human Services as meeting the State  
36          standards for detention as required in G.S. 153A-221 providing close  
37          supervision where the juvenile cannot converse with, see, or be seen by  
38          the adult population.
- 39          (18)   House arrest. – A requirement that the juvenile remain at the juvenile's  
40          residence unless the court or the juvenile court counselor authorizes the  
41          juvenile to leave for specific purposes such as employment, counseling,  
42          a course of study, or vocational training. The juvenile may be required

- 1           to wear a device that permits the supervising agency to monitor  
2           electronically the juvenile's compliance.
- 3           (19) In loco parentis. – A person acting in loco parentis means one, other  
4           than parents or legal guardian, who has assumed the status and  
5           obligation of a parent without being awarded the legal custody of a  
6           juvenile by a court.
- 7           (20) Intake counselor. – A person who screens and evaluates a complaint  
8           alleging that a juvenile is delinquent or undisciplined to determine  
9           whether the complaint should be filed as a petition.
- 10          (21) Interstate Compact on Juveniles. – An agreement ratified by 50 states  
11          and the District of Columbia providing a formal means of returning a  
12          juvenile, who is an absconder, escapee, or runaway, to the juvenile's  
13          home state, and codified in Article 28 of this Chapter.
- 14          (22) Judge. – Any district court judge.
- 15          (23) Judicial district. – Any district court district as established by G.S. 7A-  
16          133.
- 17          (24) Juvenile. – Except as provided in subdivisions (8) and (32) of this  
18          section, any person who has not reached the person's eighteenth  
19          birthday and is not married, emancipated, or a member of the armed  
20          services of the United States. Wherever the term 'juvenile' is used with  
21          reference to rights and privileges, that term encompasses the attorney  
22          for the juvenile as well.
- 23          (25) Juvenile court. – Any district court exercising jurisdiction pursuant to  
24          this Chapter.
- 25          (26) Petitioner. – The individual who initiates court action by the filing of a  
26          petition or a motion for review alleging the matter for adjudication.
- 27          (27) Post-release supervision. – The supervision of a juvenile who has been  
28          returned to the community after having been committed to the Division  
29          of Youth Services.
- 30          (28) Probation. – The status of a juvenile who has been adjudicated  
31          delinquent, is subject to specified conditions under the supervision of a  
32          court counselor, and may be returned to the court for violation of those  
33          conditions during the period of probation.
- 34          (29) Prosecutor. – The district attorney or assistant district attorney assigned  
35          by the district attorney to juvenile proceedings.
- 36          (30) Secretary. – The Secretary of the Department of Health and Human  
37          Services.
- 38          (31) Teen court program. – A community resource for the diversion of cases  
39          in which a juvenile has allegedly committed certain offenses not  
40          involving violence or personal injury for hearing by a jury of the  
41          juvenile's peers, which may assign the juvenile to counseling,  
42          restitution, curfews, community service, or other rehabilitative  
43          measures.

1           (32) Undisciplined juvenile. –

2           a. A juvenile who, while less than 16 years of age but at least 6  
3           years of age, is unlawfully absent from school; or is regularly  
4           disobedient to and beyond the disciplinary control of the  
5           juvenile's parent, guardian, or custodian; or is regularly found in  
6           places where it is unlawful for a juvenile to be; or has run away  
7           from home; or

8           b. A juvenile who is 16 or 17 years of age and who is regularly  
9           disobedient to and beyond the disciplinary control of the  
10           juvenile's parent, guardian, or custodian; or is regularly found in  
11           places where it is unlawful for a juvenile to be; or has run away  
12           from home.

13           (33) Wilderness program. – A rehabilitative residential treatment program in  
14           a rural or outdoor setting.

15           The singular includes the plural, unless otherwise specified.

16                                   "ARTICLE 16.

17                                   "Jurisdiction.

18           "§ 7B-1600. Jurisdiction over undisciplined juveniles.

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

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

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

28           "§ 7B-1601. Jurisdiction over delinquent juveniles.

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

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

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

39           (d) When the court has not obtained jurisdiction over a juvenile before the juvenile  
40           reaches the age of 18, for a felony and any related misdemeanors the juvenile allegedly  
41           committed on or after the juvenile's thirteenth birthday and prior to the juvenile's  
42           sixteenth birthday, the court has jurisdiction for the sole purpose of conducting

1 proceedings pursuant to Article 22 of this Chapter and either transferring the case to  
2 superior court for trial as an adult or dismissing the petition.

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

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

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

12 **"§ 7B-1602. Extended jurisdiction over a delinquent juvenile under certain**  
13 **circumstances.**

14 If the court orders that jurisdiction be extended pursuant to G.S. 7B-2513, jurisdiction  
15 over a juvenile shall continue after the juvenile reaches the age of 18 years until (i)  
16 jurisdiction is terminated by order of the court or (ii) the juvenile reaches the age of 19  
17 years.

18 **"§ 7B-1603. Jurisdiction in certain circumstances.**

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

20 (1) Proceedings under the Interstate Compact on the Placement of Children  
21 set forth in Article 38 of this Chapter;

22 (2) Proceedings involving judicial consent for emergency surgical or  
23 medical treatment for a juvenile when the juvenile's parent, guardian,  
24 custodian, or other person standing in loco parentis refuses to consent  
25 for treatment to be rendered; and

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

27 **"§ 7B-1604. Limitations on juvenile court jurisdiction.**

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

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

35 **"ARTICLE 17.**

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

37 **"§ 7B-1700. Intake services.**

38 The chief court counselor, under the direction of the Administrator of the Division of  
39 Juvenile Services, shall establish intake services in each judicial district of the State for  
40 all delinquency and undisciplined cases.

41 The purpose of intake services shall be to determine from available evidence whether  
42 there are reasonable grounds to believe the facts alleged are true, to determine whether  
43 the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of

1 the court, to determine whether the facts alleged are sufficiently serious to warrant court  
2 action, and to obtain assistance from community resources when court referral is not  
3 necessary. The intake counselor shall not engage in field investigations to substantiate  
4 complaints or to produce supplementary evidence but may refer complainants to law  
5 enforcement agencies for those purposes.

6 **"§ 7B-1701. Preliminary inquiry.**

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

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

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

- 19 (1) Murder;
- 20 (2) First-degree rape or second degree rape;
- 21 (3) First-degree sexual offense or second degree sexual offense;
- 22 (4) Arson;
- 23 (5) Any violation of Article 5, Chapter 90 of the General Statutes that  
24 would constitute a felony if committed by an adult;
- 25 (6) First degree burglary;
- 26 (7) Crime against nature; or
- 27 (8) Any felony which involves the willful infliction of serious bodily injury  
28 upon another or which was committed by use of a deadly weapon.

29 **"§ 7B-1702. Evaluation.**

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

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

42 Interviews required by this section shall be conducted in person unless it is necessary to  
43 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) 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;

- 1           (5) Regimented physical training;
- 2           (6) Counseling;
- 3           (7) A teen court program, as set forth in subsection (c) of this section.

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

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

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

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

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

- 40           (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-  
41 138.5, or 20-138.7, or any other motor vehicle violation;
- 42           (2) A Class A1 misdemeanor;
- 43           (3) An assault in which a weapon is used; or

1           (4)   A controlled substance offense under Article 5 of Chapter 90 of the  
 2                 General Statutes, other than simple possession of a Schedule VI drug or  
 3                 alcohol.

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

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

27                                     "ARTICLE 18.

28                                     "Venue; Petition; Summons.

29     "**§ 7B-1800. Venue.**

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

- 35           (1)   The court may transfer the proceeding to the court in the district where  
 36                 the juvenile resides for disposition.
- 37           (2)   Where the proceeding is not transferred under subdivision (1) of this  
 38                 section, the court shall immediately notify the chief district judge in the  
 39                 district in which the juvenile resides. If the chief district judge requests a  
 40                 transfer within five days after receipt of notification, the court shall  
 41                 transfer the proceeding.
- 42           (3)   Where the proceeding is not transferred under subdivision (1) or (2), the  
 43                 court, upon motion of the juvenile, shall transfer the proceeding to the

1           court in the district where the juvenile resides for disposition. The court  
2           shall advise the juvenile of the juvenile's right to transfer under this  
3           section.

4 **"§ 7B-1801. Pleading and process.**

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

7 **"§ 7B-1802. Petition.**

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

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

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

19 **"§ 7B-1803. Receipt of complaints; filing of petition.**

20          (a) All complaints concerning a juvenile alleged to be delinquent or undisciplined  
21          shall be referred to the intake counselor for screening and evaluation. Thereafter, if the  
22          intake counselor determines that a petition should be filed, the petition shall be drawn by  
23          the intake counselor or the clerk, signed by the complainant, and verified before an  
24          official authorized to administer oaths. If the circumstances indicate a need for immediate  
25          attachment of jurisdiction and if the intake counselor is out of the county or otherwise  
26          unavailable to receive a complaint and to draw a petition when it is needed, the clerk  
27          shall assist the complainant in communicating the complaint to the intake counselor by  
28          telephone and, with the approval of the intake counselor, shall draw a petition and file it  
29          when signed and verified. A copy of the complaint and petition shall be transmitted to the  
30          intake counselor. Procedures for receiving delinquency and undisciplined complaints and  
31          drawing petitions thereon, consistent with this Article and Article 17 of this Chapter shall  
32          be established by administrative order of the chief judge in each judicial district.

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

38 **"§ 7B-1804. Commencement of action.**

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

42          (b) When the office of the clerk is closed and an intake counselor requests a  
43          petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and

1 verify the petition and accept it for filing, which acceptance shall constitute filing. The  
2 magistrate's authority under this subsection is limited to emergency situations when a  
3 petition is required in order to obtain a secure or nonsecure custody order. Any petition  
4 accepted for filing under this subsection shall be delivered to the clerk's office for  
5 processing as soon as that office is open for business.

6 **"§ 7B-1805. Issuance of summons.**

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

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

13 (1) Notice of the nature of the proceeding and the purpose of the hearing  
14 scheduled on the summons.

15 (2) Notice that a parent, guardian, or custodian who fails without reasonable  
16 cause to appear and to bring the juvenile before the court may be  
17 proceeded against for contempt of court.

18 (3) Notice of any right to counsel and information about how to seek the  
19 appointment of counsel prior to a hearing.

20 (4) Notice that, if the court determines at the adjudicatory hearing that the  
21 allegations of the petition are true, the court will conduct a dispositional  
22 hearing and will have jurisdiction to enter orders affecting substantial  
23 rights of the juvenile and of the parent, guardian, or custodian, including  
24 orders that:

25 a. Affect the juvenile's custody;

26 b. Impose conditions on the juvenile;

27 c. Require that the juvenile receive medical, psychiatric,  
28 psychological, or other treatment and that the parent, guardian, or  
29 custodian participate in the treatment;

30 d. Require the parent, guardian, or custodian to undergo psychiatric,  
31 psychological, or other treatment or counseling;

32 e. Order the parent to pay for treatment that is ordered for the  
33 juvenile or the parent; and

34 f. Order the parent to pay support for the juvenile for any period the  
35 juvenile does not reside with the parent or to pay attorneys' fees  
36 or other expenses as ordered by the court.

37 (5) Notice that the parent, guardian, or custodian shall be required to attend  
38 scheduled hearings.

39 (6) Notice that the parent, guardian, or custodian shall be responsible for  
40 bringing the juvenile before the court at any hearing the juvenile is  
41 required to attend.

42 (c) The summons shall advise the parent, guardian, or custodian that upon service,  
43 jurisdiction over the parent, guardian, or custodian is obtained and that failure of the

1 parent, guardian, or custodian to appear or bring the juvenile before the court without  
2 reasonable cause or to comply with any order of the court pursuant to Article 27 of this  
3 Chapter may cause the court to issue a show cause order for contempt. The summons  
4 shall contain the following language in bold type:

5 **'TO THE PARENT, GUARDIAN, OR CUSTODIAN: YOUR FAILURE TO**  
6 **APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH**  
7 **AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CONTEMPT.'**

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

10 **"§ 7B-1806. Service of summons.**

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

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

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

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

24 **"§ 7B-1806.1. Notice to parent and juvenile of scheduled hearings.**

25 The clerk shall give to all parties, including both parents of the juvenile, five days  
26 written notice of the date and time of all scheduled hearings unless the party is notified in  
27 open court or the court orders otherwise.

28 **"§ 7B-1807. First appearance for felony cases.**

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

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

36 (1) Inform the juvenile of the allegations set forth in the petition;

37 (2) Determine whether the juvenile has retained counsel or has been  
38 assigned counsel and, if the juvenile is not represented by counsel,  
39 appoint counsel for the juvenile;

40 (3) If applicable, inform the juvenile of the date of the probable cause  
41 hearing, which shall be within 15 days of the first appearance; and

42 (4) Inform the parent, guardian, or custodian that the parent, guardian, or  
43 custodian is required to attend all hearings scheduled in the matter and

1                   may be held in contempt of court for failure to attend any scheduled  
2                   hearing.

3                   "ARTICLE 19.

4                   "Temporary Custody; Secure and Nonsecure Custody;-Custody Hearings.

5                   "**§ 7B-1900. Taking a juvenile into temporary custody.**

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

- 10                   (1)   By a law enforcement officer if grounds exist for the arrest of an adult  
11                   in identical circumstances under G.S. 15A-401(b).  
12                   (2)   By a law enforcement officer or a court counselor if there are reasonable  
13                   grounds to believe that the juvenile is an undisciplined juvenile.  
14                   (3)   By a law enforcement officer, by a court counselor, by a member of the  
15                   Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile  
16                   Evaluation Center Joint Security Force established pursuant to G.S.  
17                   122C-421, or by personnel of the Division of Youth Services as  
18                   designated by the Department if there are reasonable grounds to believe  
19                   the juvenile is an absconder from any residential facility operated by the  
20                   Division of Youth Services or from an approved detention facility.

21                   "**§ 7B-1901. Duties of person taking juvenile into temporary custody.**

22                   (a)   A person who takes a juvenile into custody without a court order under G.S.  
23                   7B-1900(1) or (2) shall proceed as follows:

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

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

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

10 **"§ 7B-1902. Authority to issue custody orders; delegation.**

11 In the case of any juvenile alleged to be within the jurisdiction of the court, when the  
12 court finds it necessary to place the juvenile in custody, the court may order that the  
13 juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7B-  
14 1903.

15 Any district court judge may issue secure and nonsecure custody orders pursuant to  
16 G.S. 7B-1903. The chief district court judge may delegate the court's authority to the  
17 chief court counselor or the chief court counselor's counseling staff by administrative  
18 order filed in the office of the clerk of superior court. The administrative order shall  
19 specify which persons may be contacted for approval of a secure or nonsecure custody  
20 order. The chief district court judge shall not delegate the court's authority to detain or  
21 house juveniles in holdover facilities pursuant to G.S. 7B-1905 or G.S. 7B-2509.

22 **"§ 7B-1903. Criteria for secure or nonsecure custody.**

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

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

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

- 34 (1) The juvenile is charged with a felony and has demonstrated that the  
35 juvenile is a danger to property or persons;  
36 (2) The juvenile is charged with a misdemeanor at least one element of  
37 which is assault on a person;  
38 (3) The juvenile has willfully failed to appear on a pending delinquency  
39 charge or on charges of violation of probation or post-release  
40 supervision, providing the juvenile was properly notified;  
41 (4) A delinquency charge is pending against the juvenile, and there is  
42 reasonable cause to believe the juvenile will not appear in court;



1           (5) The juvenile is an absconder from (i) any residential facility operated by  
2 the Division of Youth Services or any detention facility in this State or  
3 (ii) any comparable facility in another state;

4           (6) There is reasonable cause to believe the juvenile should be detained for  
5 the juvenile's own protection because the juvenile has recently suffered  
6 or attempted self-inflicted physical injury. In such case, the juvenile  
7 must have been refused admission by one appropriate hospital, and the  
8 period of secure custody is limited to 24 hours to determine the need for  
9 inpatient hospitalization. If the juvenile is placed in secure custody, the  
10 juvenile shall receive continuous supervision and a physician shall be  
11 notified immediately;

12           (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's  
13 being a runaway and is inappropriate for nonsecure custody placement  
14 or refuses nonsecure custody, and the court finds that the juvenile needs  
15 secure custody for up to 24 hours, excluding Saturdays, Sundays, and  
16 State holidays, or where circumstances require, for a period not to  
17 exceed 72 hours to evaluate the juvenile's need for medical or  
18 psychiatric treatment or to facilitate reunion with the juvenile's parents;  
19 or

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

25           (c) When a juvenile has been adjudicated delinquent, the court may order secure  
26 custody pending the dispositional hearing or pending placement of the juvenile pursuant  
27 to G.S. 7B-2504.

28           (d) The court may order secure custody for a juvenile who is alleged to have  
29 violated the conditions of the juvenile's probation or post-release supervision, but only if  
30 the juvenile is alleged to have committed acts that damage property or injure persons.

31           (e) If the criteria for secure custody as set out in subsection (b), (c), or (d) of this  
32 section are met, the court may enter an order directing an officer or other authorized  
33 person to assume custody of the juvenile and to take the juvenile to the place designated  
34 in the order.

35 **"§ 7B-1904. Order for secure or nonsecure custody.**

36           The custody order shall be in writing and shall direct a law enforcement officer or  
37 other authorized person to assume custody of the juvenile and to make due return on the  
38 order. The official executing the order shall give a copy of the order to the juvenile's  
39 parent, guardian, or custodian. If the order is for secure custody, copies of the petition  
40 and custody order shall accompany the juvenile to the detention facility or holdover  
41 facility of the jail. A message of the Division of Criminal Information, State Bureau of  
42 Investigation, stating that a juvenile petition and secure custody order relating to a  
43 specified juvenile are on file in a particular county shall be authority to detain the

1 juvenile in secure custody until a copy of the juvenile petition and secure custody order  
2 can be forwarded to the juvenile detention facility. The copies of the juvenile petition and  
3 secure custody order shall be transmitted to the detention facility no later than 72 hours  
4 after the initial detention of the juvenile.

5 An officer receiving an order for custody which is complete and regular on its face  
6 may execute it in accordance with its terms and need not inquire into its regularity or  
7 continued validity, nor does the officer incur criminal or civil liability for its execution.

8 **"§ 7B-1905. Place of secure or nonsecure custody.**

9 (a) A juvenile meeting the criteria set out in G.S. 7B-1903(a), may be placed in  
10 nonsecure custody with a department of social services or a person designated in the  
11 order for temporary residential placement in:

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

14 (2) A facility operated by a department of social services; or

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

17 In placing a juvenile in nonsecure custody, the court shall first consider whether a  
18 relative of the juvenile is willing and able to provide proper care and supervision of the  
19 juvenile. If the court finds that the relative is willing and able to provide proper care and  
20 supervision, the court shall order placement of the juvenile with the relative. Placement  
21 of a juvenile outside of this State shall be in accordance with the Interstate Compact on  
22 the Placement of Children set forth in Article 38 of this Chapter.

23 (b) A juvenile meeting the criteria set out in G.S. 7B-1903(b), (c), or (d) may be  
24 temporarily detained in an approved detention facility which shall be separate from any  
25 jail, lockup, prison, or other adult penal institution, except as provided in subsection (c)  
26 of this section. It shall be unlawful for a county or any unit of government to operate a  
27 juvenile detention facility unless the facility meets the standards and rules adopted by the  
28 Department of Health and Human Services.

29 (c) A juvenile who has allegedly committed an offense that would be a Class A,  
30 B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in  
31 a holdover facility up to 72 hours, if the court, based on information provided by the  
32 court counselor, determines that no acceptable alternative placement is available and the  
33 protection of the public requires the juvenile be housed in a holdover facility.

34 **"§ 7B-1906. Secure or nonsecure custody hearings.**

35 (a) No juvenile shall be held under a secure custody order for more than five  
36 calendar days or under a nonsecure custody order for more than seven calendar days  
37 without a hearing on the merits or an initial hearing to determine the need for continued  
38 custody. A hearing conducted under this subsection may not be continued or waived. In  
39 every case in which an order has been entered by an official exercising authority  
40 delegated pursuant to G.S. 7B-1902, a hearing to determine the need for continued  
41 custody shall be conducted on the day of the next regularly scheduled session of district  
42 court in the city or county where the order was entered if the session precedes the  
43 expiration of the applicable time period set forth in this subsection. If the session does not

1 precede the expiration of the time period, the hearing may be conducted at another  
2 regularly scheduled session of district court in the district where the order was entered.

3 (b) As long as the juvenile remains in secure or nonsecure custody, further  
4 hearings to determine the need for continued secure custody shall be held at intervals of  
5 no more than 10 calendar days. A subsequent hearing on continued nonsecure custody  
6 shall be held within seven business days, excluding Saturdays, Sundays, and legal  
7 holidays, of the initial hearing required in subsection (a) of this section and hearings  
8 thereafter shall be held at intervals of no more than 30 calendar days. In the case of a  
9 juvenile alleged to be delinquent, further hearings may be waived only with the consent  
10 of the juvenile, through counsel for the juvenile.

11 (c) The court shall determine whether a juvenile who is alleged to be delinquent  
12 has retained counsel or has been assigned counsel; and, if the juvenile is not represented  
13 by counsel, appoint counsel for the juvenile.

14 (d) At a hearing to determine the need for continued custody, the court shall  
15 receive testimony and shall allow the juvenile and the juvenile's parent, guardian, or  
16 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to  
17 examine witnesses. The State shall bear the burden at every stage of the proceedings to  
18 provide clear and convincing evidence that restraints on the juvenile's liberty are  
19 necessary and that no less intrusive alternative will suffice. The court shall not be bound  
20 by the usual rules of evidence at the hearings.

21 (e) The court shall be bound by criteria set forth in G.S. 7B-1903 in determining  
22 whether continued custody is warranted.

23 (f) The court may impose appropriate restrictions on the liberty of a juvenile who  
24 is released from secure custody, including:

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

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

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

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

33 (g) If the court determines that the juvenile meets the criteria in G.S. 7B-1903 and  
34 should continue in custody, the court shall issue an order to that effect. The order shall be  
35 in writing with appropriate findings of fact. The findings of fact shall include the  
36 evidence relied upon in reaching the decision and the purposes which continued custody  
37 is to achieve.

38 (h) The court may conduct a hearing to determine the need to continue custody by  
39 audio and video transmission between the court and the juvenile in which the parties can  
40 see and hear each other. If the juvenile has counsel, the juvenile may communicate fully  
41 and confidentially with the juvenile's attorney during the proceeding. Prior to the use of  
42 audio and video transmission, the procedures and type of equipment for audio and video

1 transmission shall be submitted to the Administrative Office of the Courts by the chief  
2 district court judge and approved by the Administrative Office of the Courts.

3 **"§ 7B-1907. Telephonic communication authorized.**

4 All communications, notices, orders, authorizations, and requests authorized or  
5 required by G.S. 7B-1901, 7B-1903, and 7B-1904 may be made by telephone when other  
6 means of communication are impractical. All written orders pursuant to telephonic  
7 communication shall bear the name and the title of the person communicating by  
8 telephone, the signature and the title of the official entering the order, and the hour and  
9 the date of the authorization.

10 "ARTICLE 20.

11 "Basic Rights.

12 **"§ 7B-2000. Juvenile's right to counsel; presumption of indigence.**

13 (a) A juvenile alleged to be within the jurisdiction of the court has the right to be  
14 represented by counsel in all proceedings. The court shall appoint counsel for the  
15 juvenile, unless counsel is retained for the juvenile, in any proceeding in which the  
16 juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or  
17 adjudicated to be undisciplined.

18 (b) All juveniles shall be conclusively presumed to be indigent, and it shall not be  
19 necessary for the court to receive from any juvenile an affidavit of indigency.

20 **"§ 7B-2001. Appointment of guardian.**

21 In any case when no parent, guardian, or custodian appears in a hearing with the  
22 juvenile or when the court finds it would be in the best interests of the juvenile, the court  
23 may appoint a guardian of the person for the juvenile. The guardian shall operate under  
24 the supervision of the court with or without bond and shall file only such reports as the  
25 court shall require. Unless the court orders otherwise, the guardian:

- 26 (1) Shall have the care, custody, and control of the juvenile or may arrange  
27 a suitable placement for the juvenile.  
28 (2) May represent the juvenile in legal actions before any court.  
29 (3) May consent to certain actions on the part of the juvenile in place of the  
30 parent, guardian, or custodian, including (i) marriage, (ii) enlisting in  
31 the armed forces, and (iii) enrollment in school.  
32 (4) May consent to any necessary remedial, psychological, medical, or  
33 surgical treatment for the juvenile.

34 The authority of the guardian shall continue until the guardianship is terminated by court  
35 order, until the juvenile is emancipated pursuant to Subchapter IV of this Chapter, or until  
36 the juvenile reaches the age of majority.

37 **"§ 7B-2002. Payment of court-appointed attorney.**

38 An attorney appointed pursuant to G.S. 7B-2000 or pursuant to any other provision of  
39 this Subchapter shall be paid a reasonable fee fixed by the court in the same manner as  
40 fees for attorneys appointed in cases of indigency through the Administrative Office of  
41 the Courts. The court may require payment of the attorneys' fees from a person other  
42 than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. A person who

1 does not comply with the court's order of payment may be found in civil contempt as  
2 provided in G.S. 5A-21.

3 "ARTICLE 21.

4 "Law Enforcement Procedures in Delinquency Proceedings.

5 **"§ 7B-2100. Role of the law enforcement officer.**

6 A law enforcement officer who takes a juvenile into temporary custody should select  
7 the most appropriate course of action to the situation, the needs of the juvenile, and the  
8 protection of the public safety. The officer may:

- 9 (1) Release the juvenile, with or without first counseling the juvenile;  
10 (2) Release the juvenile to the juvenile's parent, guardian, or custodian;  
11 (3) Refer the juvenile to community resources;  
12 (4) Seek a petition; or  
13 (5) Seek a petition and request a custody order.

14 **"§ 7B-2101. Interrogation procedures.**

15 (a) Any juvenile in custody must be advised prior to questioning:

- 16 (1) That the juvenile has a right to remain silent;  
17 (2) That any statement the juvenile does make can be and may be used  
18 against the juvenile;  
19 (3) That the juvenile has a right to have a parent, guardian, or custodian  
20 present during questioning; and  
21 (4) That the juvenile has a right to consult with an attorney and that one will  
22 be appointed for the juvenile if the juvenile is not represented and wants  
23 representation.

24 (b) When the juvenile is less than 14 years of age, no in-custody admission or  
25 confession resulting from interrogation may be admitted into evidence unless the  
26 confession or admission was made in the presence of the juvenile's parent, guardian,  
27 custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as  
28 well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of  
29 this section; however, a parent, guardian, or custodian may not waive any right on behalf  
30 of the juvenile.

31 (c) If the juvenile indicates in any manner and at any stage of questioning pursuant  
32 to this section that the juvenile does not wish to be questioned further, the officer shall  
33 cease questioning.

34 (d) Before admitting into evidence any statement resulting from custodial  
35 interrogation, the court shall find that the juvenile knowingly, willingly, and  
36 understandingly waived the juvenile's rights.

37 **"§ 7B-2102. Fingerprinting and photographing juveniles.**

38 (a) A law enforcement officer or agency may fingerprint and photograph a  
39 juvenile in custody who is alleged to have committed an offense that would be a felony if  
40 committed by an adult.

41 (b) If a law enforcement officer or agency does not take the fingerprints or a  
42 photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints or  
43 photograph have been destroyed pursuant to subsection (e) of this section, a law

1 enforcement officer or agency shall fingerprint and photograph a juvenile who has been  
2 adjudicated delinquent if the juvenile was 10 years of age or older at the time the juvenile  
3 committed an offense that would be a felony if committed by an adult.

4 (c) A law enforcement officer or agency who fingerprints or photographs a  
5 juvenile pursuant to this section shall do so in a proper format for transfer to the State  
6 Bureau of Investigation and the Federal Bureau of Investigation. Fingerprints obtained  
7 pursuant to this section shall be transferred to the State Bureau of Investigation and  
8 placed in the Automated Fingerprint Identification System (AFIS) to be used for all  
9 investigative and comparison purposes. Photographs obtained pursuant to this section  
10 shall be placed in a format approved by the State Bureau of Investigation and may be  
11 used for all investigative or comparison purposes. Fingerprints of a juvenile who has  
12 been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E  
13 felony if committed by an adult, and who was 10 years of age or older at the time the  
14 juvenile committed the offense, shall be transferred to the Federal Bureau of  
15 Investigation to be used for all investigative or comparison purposes.

16 (d) Fingerprints and photographs taken pursuant to this section are not public  
17 records under Chapter 132 of the General Statutes, shall not be included in the clerk's  
18 record pursuant to G.S. 7B-3000, shall be withheld from public inspection or  
19 examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200.  
20 Fingerprints and photographs taken pursuant to this section shall be maintained  
21 separately from any juvenile record, other than the electronic file maintained by the State  
22 Bureau of Investigation.

23 (e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of  
24 this section, the custodian of records shall destroy all fingerprints and photographs at the  
25 earlier of the following:

- 26 (1) The intake counselor or prosecutor does not file a petition against the  
27 juvenile;
- 28 (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- 29 (3) The juvenile is not adjudicated delinquent.

30 The chief court counselor shall notify the local custodian of records, and the local  
31 custodian of records shall notify any other record-holding agencies, when a decision is  
32 made not to file a petition, the court does not find probable cause, or the court does not  
33 adjudicate the juvenile delinquent.

34 **"§ 7B-2103. Authority to issue nontestimonial identification order where juvenile**  
35 **alleged to be delinquent.**

36 Except as provided in G.S. 7B-2102, nontestimonial identification procedures shall  
37 not be conducted on any juvenile without a court order issued pursuant to this Article  
38 unless the juvenile has been charged as an adult or transferred to superior court for trial as  
39 an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of  
40 Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order  
41 authorized by this Article may be issued by any judge of the district court or of the  
42 superior court upon request of a prosecutor. As used in this Article, 'nontestimonial  
43 identification' means identification by fingerprints, palm prints, footprints, measurements,

1 blood specimens, urine specimens, saliva samples, hair samples, or other reasonable  
2 physical examination, handwriting exemplars, voice samples, photographs, and lineups or  
3 similar identification procedures requiring the presence of a juvenile.

4 **"§ 7B-2104. Time of application for nontestimonial identification order.**

5 A request for a nontestimonial identification order may be made prior to taking a  
6 juvenile into custody or after custody and prior to the adjudicatory hearing.

7 **"§ 7B-2105. Grounds for nontestimonial identification order.**

8 (a) Except as provided in subsection (b) of this section, a nontestimonial  
9 identification order may issue only on affidavit or affidavits sworn to before the court and  
10 establishing the following grounds for the order:

11 (1) That there is probable cause to believe that an offense has been  
12 committed that would be a felony if committed by an adult;

13 (2) That there are reasonable grounds to suspect that the juvenile named or  
14 described in the affidavit committed the offense; and

15 (3) That the results of specific nontestimonial identification procedures will  
16 be of material aid in determining whether the juvenile named in the  
17 affidavit committed the offense.

18 (b) A nontestimonial identification order to obtain a blood specimen from a  
19 juvenile may issue only on affidavit or affidavits sworn to before the court and  
20 establishing the following grounds for the order:

21 (1) That there is probable cause to believe that an offense has been  
22 committed that would be a felony if committed by an adult;

23 (2) That there is probable cause to believe that the juvenile named or  
24 described in the affidavit committed the offense; and

25 (3) That there is probable cause to believe that obtaining a blood specimen  
26 from the juvenile will be of material aid in determining whether the  
27 juvenile named in the affidavit committed the offense.

28 **"§ 7B-2106. Issuance of order.**

29 Upon a showing that the grounds specified in G.S. 7B-2105 exist, the judge may issue  
30 an order following the same procedure as in the case of adults under G.S. 15A-274, 15A-  
31 275, 15A-276, 15A-277, 15A-278, 15A-279, 15A-280, and 15A-282.

32 **"§ 7B-2107. Nontestimonial identification order at request of juvenile.**

33 A juvenile in custody for or charged with an offense which if committed by an adult  
34 would be a felony offense may request that nontestimonial identification procedures be  
35 conducted. If it appears that the results of specific nontestimonial identification  
36 procedures will be of material aid to the juvenile's defense, the judge to whom the request  
37 was directed must order the State to conduct the identification procedures.

38 **"§ 7B-2108. Destruction of records resulting from nontestimonial identification**  
39 **procedures.**

40 The results of any nontestimonial identification procedures shall be retained or  
41 disposed of as follows:

- 1           (1) If a petition is not filed against a juvenile who has been the subject of  
2 nontestimonial identification procedures, all records of the evidence  
3 shall be destroyed.
- 4           (2) If the juvenile is not adjudicated delinquent or convicted in superior  
5 court following transfer, all records resulting from a nontestimonial  
6 order shall be destroyed. Further, in the case of a juvenile who is under  
7 13 years of age and who is adjudicated delinquent for an offense that  
8 would be less than a felony if committed by an adult, all records shall be  
9 destroyed.
- 10          (3) If a juvenile 13 years of age or older is adjudicated delinquent for an  
11 offense that would be a felony if committed by an adult, all records  
12 resulting from a nontestimonial order may be retained in the court file.  
13 Special precautions shall be taken to ensure that these records will be  
14 maintained in a manner and under sufficient safeguards to limit their use  
15 to inspection by law enforcement officers for comparison purposes in  
16 the investigation of a crime.
- 17          (4) If the juvenile is transferred to and convicted in superior court, all  
18 records resulting from nontestimonial identification procedures shall be  
19 processed as in the case of an adult.
- 20          (5) Any evidence seized pursuant to a nontestimonial order shall be retained  
21 by law enforcement officers until further order is entered by the court.
- 22          (6) Destruction of nontestimonial identification records pursuant to this  
23 section shall be performed by the law enforcement agency having  
24 possession of the records. Following destruction, the law enforcement  
25 agency shall make written certification to the court of the destruction.

26 **"§ 7B-2109. Penalty for willful violation.**

27 Any person who willfully violates provisions of this Article which prohibit  
28 conducting nontestimonial identification procedures without an order issued by the court  
29 shall be guilty of a Class 1 misdemeanor.

30 "ARTICLE 22.

31 "Probable Cause Hearing and Transfer Hearing.

32 **"§ 7B-2200. Transfer of jurisdiction of juvenile to superior court; direct filing in**  
33 **superior court.**

34 (a) Except as provided in subsection (b) of this section, after notice, hearing, and a  
35 finding of probable cause the court may, upon motion of the prosecutor or the juvenile's  
36 attorney or upon its own motion, transfer jurisdiction over a juvenile to superior court if  
37 the juvenile was 13 years of age or older at the time the juvenile allegedly committed an  
38 offense that would be a felony if committed by an adult. If the alleged felony constitutes  
39 a Class A felony and the court finds probable cause, the court shall transfer the case to the  
40 superior court for trial as in the case of adults.

41 (b) Notwithstanding G.S. 7B-1601, the prosecutor may file charges in superior  
42 court against a juvenile who was 15 years of age at the time the juvenile allegedly



1 committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by  
2 an adult.

3 **"§ 7B-2201. Fingerprinting juvenile transferred to superior court.**

4 When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall  
5 be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of  
6 Investigation.

7 **"§ 7B-2202. Probable cause hearing.**

8 (a) The court shall conduct a hearing to determine probable cause in all felony  
9 cases in which a juvenile was 13 years of age or older when the offense was allegedly  
10 committed. The hearing shall be conducted within 15 days of the date of the juvenile's  
11 first appearance. The court may continue the hearing for good cause.

12 (b) At the probable cause hearing:

13 (1) A prosecutor shall represent the State;

14 (2) The juvenile shall be represented by counsel;

15 (3) The juvenile may testify, call, and examine witnesses, and present  
16 evidence; and

17 (4) Each witness shall testify under oath or affirmation and be subject to  
18 cross-examination.

19 (c) The State shall by nonhearsay evidence, or by evidence that satisfies an  
20 exception to the hearsay rule, show that there is probable cause to believe that the offense  
21 charged has been committed and that there is probable cause to believe that the juvenile  
22 committed it, except:

23 (1) A report or copy of a report made by a physicist, chemist, firearms  
24 identification expert, fingerprint technician, or an expert or technician in  
25 some other scientific, professional, or medical field, concerning the  
26 results of an examination, comparison, or test performed in connection  
27 with the case in issue, when stated by that person in a report made by  
28 the juvenile, is admissible in evidence;

29 (2) If there is no serious contest, reliable hearsay is admissible to prove  
30 value, ownership of property, possession of property in a person other  
31 than the juvenile, lack of consent of the owner, possessor, or custodian  
32 of property to the breaking or entering of premises, chain of custody,  
33 and authenticity of signatures.

34 (d) Counsel for the juvenile may waive in writing the right to the hearing and  
35 stipulate to a finding of probable cause.

36 (e) If probable cause is found and transfer to superior court is not required by G.S.  
37 7B-2200, upon motion of the prosecutor or the juvenile's attorney or upon its own  
38 motion, the court shall either proceed to a transfer hearing or set a date for that hearing.  
39 If the juvenile has not received notice of the intention to seek transfer at least five days  
40 prior to the probable cause hearing, the court shall continue the transfer hearing.

41 (f) If the court does not find probable cause for a felony offense, the court shall:

42 (1) Dismiss the proceeding, or

- 1           (2) If the court finds probable cause to believe that the juvenile committed a  
2 lesser included offense that would constitute a misdemeanor if  
3 committed by an adult, either proceed to an adjudicatory hearing or set a  
4 date for that hearing.

5 **"§ 7B-2203. Transfer hearing.**

6           (a) At the transfer hearing, the prosecutor and the juvenile may be heard and may  
7 offer evidence, and the juvenile's attorney may examine any court or probation records,  
8 or other records the court may consider in determining whether to transfer the case.

9           (b) In the transfer hearing, the court shall determine whether the protection of the  
10 public and the needs of the juvenile will be served by transfer of the case to superior  
11 court and shall consider the following factors:

12               (1) The age of the juvenile;

13               (2) The maturity of the juvenile;

14               (3) The intellectual functioning of the juvenile;

15               (4) The prior record of the juvenile;

16               (5) Prior attempts to rehabilitate the juvenile;

17               (6) Facilities or programs available to the court prior to the expiration of the  
18 court's jurisdiction under this Subchapter and the likelihood that the  
19 juvenile would benefit from treatment or rehabilitative efforts;

20               (7) Whether the alleged offense was committed in an aggressive, violent,  
21 premeditated, or willful manner; and

22               (8) The seriousness of the offense and whether the protection of the public  
23 requires that the juvenile be prosecuted as an adult.

24           (c) Any order of transfer shall specify the reasons for transfer. When the case is  
25 transferred to superior court, the superior court has jurisdiction over that felony, any  
26 offense based on the same act or transaction or on a series of acts or transactions  
27 connected together or constituting parts of a single scheme or plan of that felony, and any  
28 greater or lesser included offense of that felony.

29           (d) If the court does not transfer the case to superior court, the court shall either  
30 proceed to an adjudicatory hearing or set a date for that hearing.

31 **"§ 7B-2204. Right to pretrial release; detention.**

32           Once the order of transfer has been entered, the juvenile has the right to pretrial  
33 release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify  
34 the person or persons to whom the juvenile may be released. Pending release, the court  
35 shall order that the juvenile be detained in a detention facility while awaiting trial. The  
36 court may order the juvenile to be held in a holdover facility at any time the presence of  
37 the juvenile is required in court for pretrial hearings or trial, if the court finds that it  
38 would be inconvenient to return the juvenile to the detention facility.

39           Should the juvenile be found guilty, or enter a plea of guilty or no contest to a  
40 criminal offense in superior court and receive an active sentence, then immediate transfer  
41 to the Department of Correction shall be ordered. Until such time as the juvenile is  
42 transferred to the Department of Correction, the juvenile may be detained in a holdover

1 facility. The juvenile may not be detained in a detention facility pending transfer to the  
2 Department of Correction.

3 The juvenile may be kept by the Department of Correction as a safekeeper until the  
4 juvenile is placed in an appropriate correctional program.

5 **"§ 7B-2205. When jeopardy attaches.**

6 Jeopardy attaches in an adjudicatory hearing when the court begins to hear evidence.

7 "ARTICLE 23.

8 "Discovery.

9 **"§ 7B-2300. Disclosure of evidence by petitioner.**

10 (a) Statement of the Juvenile. – Upon motion of a juvenile alleged to be  
11 delinquent, the court shall order the petitioner:

12 (1) To permit the juvenile to inspect and copy any relevant written or  
13 recorded statements within the possession, custody, or control of the  
14 petitioner made by the juvenile or any other party charged in the same  
15 action; and

16 (2) To divulge, in written or recorded form, the substance of any oral  
17 statement made by the juvenile or any other party charged in the same  
18 action.

19 (b) Names of Witnesses. – Upon motion of the juvenile, the court shall order the  
20 petitioner to furnish the names of persons to be called as witnesses. A copy of the record  
21 of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon  
22 the juvenile's motion if accessible to the petitioner.

23 (c) Documents and Tangible Objects. – Upon motion of the juvenile, the court  
24 shall order the petitioner to permit the juvenile to inspect and copy books, papers,  
25 documents, photographs, motion pictures, mechanical or electronic recordings, tangible  
26 objects, or portions thereof:

27 (1) Which are within the possession, custody, or control of the petitioner,  
28 the prosecutor, or any law enforcement officer conducting an  
29 investigation of the matter alleged; and

30 (2) Which are material to the preparation of the defense, are intended for  
31 use by the petitioner as evidence, or were obtained from or belong to the  
32 juvenile.

33 (d) Reports of Examinations and Tests. – Upon motion of a juvenile, the court  
34 shall order the petitioner to permit the juvenile to inspect and copy results of physical or  
35 mental examinations or of tests, measurements, or experiments made in connection with  
36 the case, within the possession, custody, or control of the petitioner. In addition upon  
37 motion of a juvenile, the court shall order the petitioner to permit the juvenile to inspect,  
38 examine, and test, subject to appropriate safeguards, any physical evidence or a sample of  
39 it or tests or experiments made in connection with the evidence in the case if it is  
40 available to the petitioner, the prosecutor, or any law enforcement officer conducting an  
41 investigation of the matter alleged and if the petitioner intends to offer the evidence at  
42 trial.

1       (e) Except as provided in subsections (a) through (d) of this section, this Article  
2 does not require the production of reports, memoranda, or other internal documents made  
3 by the petitioner, law enforcement officers, or other persons acting on behalf of the  
4 petitioner in connection with the investigation or prosecution of the case or of statements  
5 made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

6       (f) Nothing in this section prohibits a petitioner from making voluntary  
7 disclosures in the interest of justice.

8 **"§ 7B-2301. Disclosure of evidence by juvenile.**

9       (a) Names of Witnesses. – Upon motion of the petitioner, the court shall order the  
10 juvenile to furnish to the petitioner the names of persons to be called as witnesses.

11       (b) Documents and Tangible Objects. – If the court grants any relief sought by the  
12 juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the  
13 juvenile to permit the petitioner to inspect and copy books, papers, documents,  
14 photographs, motion pictures, mechanical or electronic recordings, tangible objects, or  
15 portions thereof which are within the possession, custody, or control of the juvenile and  
16 which the juvenile intends to introduce in evidence.

17       (c) Reports of Examinations and Tests. – If the court grants any relief sought by  
18 the juvenile under G.S. 7B-2300, upon motion of the petitioner, the court shall order the  
19 juvenile to permit the petitioner to inspect and copy results of physical or mental  
20 examinations or of tests, measurements, or experiments made in connection with the case  
21 within the possession and control of the juvenile which the juvenile intends to introduce  
22 in evidence or which were prepared by a witness whom the juvenile intends to call if the  
23 results relate to the witness's testimony. In addition, upon motion of a petitioner, the court  
24 shall order the juvenile to permit the petitioner to inspect, examine, and test, subject to  
25 appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to  
26 offer the evidence or tests or experiments made in connection with the evidence in the  
27 case.

28 **"§ 7B-2302. Regulation of discovery; protective orders.**

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

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

36 **"§ 7B-2303. Continuing duty to disclose.**

37       If a party, subject to compliance with an order issued pursuant to this Article,  
38 discovers additional evidence prior to or during the hearing or decides to use additional  
39 evidence, and if the evidence is or may be subject to discovery or inspection under this  
40 Article, the party shall promptly notify the other party of the existence of the additional  
41 evidence or of the name of each additional witness.

42                                   "ARTICLE 24.

43                                   "Hearing Procedures.

1 **"§ 7B-2400. Amendment of petition.**

2 The court may permit a petition to be amended when the amendment does not change  
3 the nature of the offense alleged. If a motion to amend is allowed, the juvenile shall be  
4 given a reasonable opportunity to prepare a defense to the amended allegations.

5 **"§ 7B-2401. Determination of incapacity to proceed; evidence; temporary**  
6 **commitment; temporary orders.**

7 The provisions of G.S. 15A-1001, 15A-1002, and 15A-1003 apply to all cases in  
8 which a juvenile is alleged to be delinquent. No juvenile committed under this section  
9 may be placed in a situation where the juvenile will come in contact with adults  
10 committed for any purpose.

11 **"§ 7B-2402. Open hearings.**

12 All hearings authorized or required pursuant to this Subchapter shall be open to the  
13 public unless the court closes the hearing or part of the hearing for good cause, upon  
14 motion of a party or its own motion.

15 **"§ 7B-2403. Adjudicatory hearing.**

16 The adjudicatory hearing shall be held within a reasonable time in the district at the  
17 time and place the chief district judge designates.

18 **"§ 7B-2404. Participation of the prosecutor.**

19 A prosecutor shall represent the State in contested delinquency hearings including  
20 first appearance, detention, probable cause, transfer, adjudicatory, dispositional,  
21 probation revocation, post-release supervision, and extended jurisdiction hearings.

22 **"§ 7B-2405. Conduct of the adjudicatory hearing.**

23 The adjudicatory hearing shall be a judicial process designed to determine whether the  
24 juvenile is undisciplined or delinquent. In the adjudicatory hearing, the court shall protect  
25 the following rights of the juvenile and the juvenile's parent, guardian, or custodian to  
26 assure due process of law:

- 27 (1) The right to written notice of the facts alleged in the petition;
- 28 (2) The right to counsel;
- 29 (3) The right to confront and cross-examine witnesses;
- 30 (4) The privilege against self-incrimination;
- 31 (5) The right of discovery; and
- 32 (6) All rights afforded adult offenders except the right to bail, the right of  
33 self-representation, and the right of trial by jury.

34 **"§ 7B-2406. Continuances.**

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

41 **"§ 7B-2407. When admissions by juvenile may be accepted.**

42 (a) The court may accept an admission from a juvenile only after first addressing  
43 the juvenile personally and:

- 1           (1) Informing the juvenile that the juvenile has a right to remain silent and  
2           that any statement the juvenile makes may be used against the juvenile;
- 3           (2) Determining that the juvenile understands the nature of the charge;
- 4           (3) Informing the juvenile that the juvenile has a right to deny the  
5           allegations;
- 6           (4) Informing the juvenile that by the juvenile's admissions the juvenile  
7           waives the juvenile's right to be confronted by the witnesses against the  
8           juvenile;
- 9           (5) Determining that the juvenile is satisfied with the juvenile's  
10           representation; and
- 11          (6) Informing the juvenile of the most restrictive disposition on the charge.

12          (b) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile  
13 personally, the court shall determine whether there were any prior discussions involving  
14 admissions, whether the parties have entered into any arrangement with respect to the  
15 admissions and the terms thereof, and whether any improper pressure was exerted. The  
16 court may accept an admission from a juvenile only after determining that the admission  
17 is a product of informed choice.

18          (c) The court may accept an admission only after determining that there is a  
19 factual basis for the admission. This determination may be based upon any of the  
20 following information: a statement of the facts by the prosecutor; a written statement of  
21 the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts  
22 by the juvenile's attorney.

23 **"§ 7B-2408. Rules of evidence.**

24          If the juvenile denies the allegations of the petition, the court shall proceed in  
25 accordance with the rules of evidence applicable to criminal cases. In addition, no  
26 statement made by a juvenile to the intake counselor during the preliminary inquiry and  
27 evaluation process shall be admissible prior to the dispositional hearing.

28 **"§ 7B-2409. Quantum of proof in adjudicatory hearing.**

29          The allegations of a petition alleging the juvenile is delinquent shall be proved beyond  
30 a reasonable doubt. The allegations in a petition alleging undisciplined behavior shall be  
31 proved by clear and convincing evidence.

32 **"§ 7B-2410. Record of proceedings.**

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

37 **"§ 7B-2411. Adjudication.**

38          If the court finds that the allegations in the petition have been proved as provided in  
39 G.S. 7B-2409, the court shall so state. If the court finds that the allegations have not been  
40 proved, the court shall dismiss the petition with prejudice and the juvenile shall be  
41 released from secure or nonsecure custody if the juvenile is in custody.

42 **"§ 7B-2412. Legal effect of adjudication of delinquency.**

1 An adjudication that a juvenile is delinquent or commitment of a juvenile to the  
2 Division of Youth Services shall neither be considered conviction of any criminal offense  
3 nor cause the juvenile to forfeit any citizenship rights.

4 **"§ 7B-2413. Predisposition investigation and report.**

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

17 "ARTICLE 25.

18 "Dispositions.

19 **"§ 7B-2500. Purpose.**

20 The purpose of dispositions in juvenile actions is to design an appropriate plan to  
21 meet the needs of the juvenile and to achieve the objectives of the State in exercising  
22 jurisdiction, including the protection of the public. The court should develop a  
23 disposition in each case that:

24 (1) Promotes public safety;

25 (2) Emphasizes accountability and responsibility of both the parent,  
26 guardian, or custodian and the juvenile for the juvenile's conduct; and

27 (3) Provides the appropriate consequences, treatment, training, and  
28 rehabilitation to assist the juvenile toward becoming a nonoffending,  
29 responsible, and productive member of the community.

30 **"§ 7B-2500.1. Dispositional hearing.**

31 (a) The dispositional hearing may be informal, and the court may consider written  
32 reports or other evidence concerning the needs of the juvenile.

33 (b) The juvenile and the juvenile's parent, guardian, or custodian shall have an  
34 opportunity to present evidence, and they may advise the court concerning the disposition  
35 they believe to be in the best interests of the juvenile.

36 (c) In choosing among statutorily permissible dispositions, the court shall select  
37 the most appropriate disposition both in terms of kind and duration for the delinquent  
38 juvenile. Within the guidelines set forth in G.S. 7B-2505, the court shall select a  
39 disposition that is designed to protect the public and to meet the needs and best interests  
40 of the juvenile, based upon:

41 (1) The seriousness of the offense;

42 (2) The need to hold the juvenile accountable;

43 (3) The importance of protecting the public safety;

1           (4) The degree of culpability indicated by the circumstances of the  
2           particular case; and

3           (5) The rehabilitative and treatment needs of the juvenile.

4           (d) The court may dismiss the case, or continue the case for no more than six  
5 months in order to allow the family an opportunity to meet the needs of the juvenile  
6 through more adequate home supervision, through placement in a private or specialized  
7 school or agency, through placement with a relative, or through some other plan  
8 approved by the court.

9 **"§ 7B-2500.2. Evaluation and treatment of undisciplined and delinquent juveniles.**

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

13          (b) Upon completion of the examination, the court shall conduct a hearing to  
14 determine whether the juvenile is in need of medical, surgical, psychiatric, psychological,  
15 or other evaluation or treatment and who should pay the cost of the evaluation or  
16 treatment. The county manager, or any other person who is designated by the chair of the  
17 board of county commissioners, of the county of the juvenile's residence shall be notified  
18 of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of  
19 medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court  
20 shall permit the parent, guardian, custodian, or other responsible persons to arrange for  
21 evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make  
22 necessary arrangements, the court may order the needed evaluation or treatment, surgery,  
23 or care, and the court may order the parent to pay the cost of the care pursuant to Article  
24 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or  
25 treatment, the court shall order the county to arrange for evaluation or treatment of the  
26 juvenile and to pay for the cost of the evaluation or treatment. The county department of  
27 social services shall recommend the facility that will provide the juvenile with evaluation  
28 or treatment.

29          (c) If the court believes, or if there is evidence presented to the effect that the  
30 juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to  
31 the area mental health, developmental disabilities, and substance abuse services director  
32 for appropriate action. A juvenile shall not be committed directly to a State hospital or  
33 mental retardation center; and orders purporting to commit a juvenile directly to a State  
34 hospital or mental retardation center except for an examination to determine capacity to  
35 proceed shall be void and of no effect. The area mental health, developmental disabilities,  
36 and substance abuse director shall be responsible for arranging an interdisciplinary  
37 evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If  
38 institutionalization is determined to be the best service for the juvenile, admission shall  
39 be with the voluntary consent of the parent or guardian. If the parent, guardian, or  
40 custodian refuses to consent to a mental hospital or retardation center admission after  
41 such institutionalization is recommended by the area mental health, developmental  
42 disabilities, and substance abuse director, the signature and consent of the court may be  
43 substituted for that purpose. In all cases in which a regional mental hospital refuses



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

8 **"§ 7B-2501. Dispositional alternatives for undisciplined juveniles.**

9 The following alternatives for disposition shall be available to the court exercising  
10 jurisdiction over a juvenile who has been adjudicated undisciplined. The court may  
11 combine any of the applicable alternatives when the court finds it to be in the best  
12 interests of the juvenile:

13 (1) In the case of any juvenile who needs more adequate care or supervision  
14 or who needs placement, the judge may:

15 a. Require that the juvenile be supervised in the juvenile's own  
16 home by a department of social services in the juvenile's county  
17 of residence, a court counselor, or other personnel as may be  
18 available to the court, subject to conditions applicable to the  
19 parent, guardian, or custodian or the juvenile as the judge may  
20 specify; or

21 b. Place the juvenile in the custody of a parent, guardian, custodian,  
22 relative, private agency offering placement services, or some  
23 other suitable person; or

24 c. Place the juvenile in the custody of a department of social  
25 services in the county of the juvenile's residence, or in the case of  
26 a juvenile who has legal residence outside the State, in the  
27 physical custody of a department of social services in the county  
28 where the juvenile is found so that agency may return the  
29 juvenile to the responsible authorities in the juvenile's home  
30 state. The director may, unless otherwise ordered by the judge,  
31 arrange for, provide, or consent to, needed routine or emergency  
32 medical or surgical care or treatment. In the case where the  
33 parent is unknown, unavailable, or unable to act on behalf of the  
34 child or children, the director may, unless otherwise ordered by  
35 the judge, arrange for, provide or consent to any psychiatric,  
36 psychological, educational, or other remedial evaluations or  
37 treatment for the juvenile placed by a judge or the judge's  
38 designee in the custody or physical custody of a county  
39 department of social services under the authority of this or any  
40 other Chapter of the General Statutes. Prior to exercising this  
41 authority, the director shall make reasonable efforts to obtain  
42 consent from a parent or guardian of the affected child. If the  
43 director cannot obtain consent, the director shall promptly notify

1           the parent or guardian that care or treatment has been provided  
2           and shall give the parent or guardian frequent status reports on  
3           the circumstances of the child. Upon request of a parent or  
4           guardian of the affected child, the results or records of the  
5           aforementioned evaluations, findings, or treatment shall be made  
6           available to the parent or guardian by the director unless  
7           prohibited by G.S. 122C-53(d).

8           (2) Place the juvenile under the protective supervision of a court counselor  
9           for no more than one year.

10          (3) Excuse the juvenile from compliance with the compulsory school  
11          attendance law when the court finds that suitable alternative plans can  
12          be arranged by the family through other community resources for one of  
13          the following: an education related to the needs or abilities of the  
14          juvenile including vocational education or special education; a suitable  
15          plan of supervision or placement; or some other plan that the court finds  
16          to be in the best interests of the juvenile.

17 **"§ 7B-2502. Conditions of protective supervision for undisciplined juveniles.**

18          The court may place a juvenile on protective supervision pursuant to G.S. 7B-2501 so  
19          that the court counselor may (i) assist the juvenile in securing social, medical, and  
20          educational services and (ii) visit and work with the family as a unit to ensure the juvenile  
21          is provided proper supervision and care. The court may impose any combination of the  
22          following conditions of protective supervision that are related to the needs of the juvenile,  
23          including:

24           (1) That the juvenile shall remain on good behavior and not violate any  
25           laws;

26           (2) That the juvenile attend school regularly;

27           (3) That the juvenile maintain passing grades in up to four courses during  
28           each grading period and meet with the court counselor and a  
29           representative of the school to make a plan for how to maintain those  
30           passing grades;

31           (4) That the juvenile not associate with specified persons or be in specified  
32           places;

33           (5) That the juvenile abide by a prescribed curfew;

34           (6) That the juvenile report to a court counselor as often as required by a  
35           court counselor;

36           (7) That the juvenile be employed regularly if not attending school; and

37           (8) That the juvenile satisfy any other conditions determined appropriate by  
38           the court.

39 **"§ 7B-2503. Contempt of court for undisciplined juveniles.**

40          Upon motion of the court counselor or on the court's own motion, the court may issue  
41          an order directing a juvenile who has been adjudicated undisciplined to appear and show  
42          cause why the juvenile should not be held in contempt for willfully failing to comply  
43          with an order of the court. The first time the juvenile is held in contempt, the court may

1 order the juvenile confined in an approved detention facility for a period not to exceed 24  
2 hours. The second time the juvenile is held in contempt, the court may order the juvenile  
3 confined in an approved detention facility for a period not to exceed three days. The  
4 third time and all subsequent times the juvenile is held in contempt, the court may order  
5 the juvenile confined in an approved detention facility for a period not to exceed five  
6 days.

7 **"§ 7B-2504. Dispositional alternatives for delinquent juveniles.**

8 The court exercising jurisdiction over a juvenile who has been adjudicated delinquent  
9 may use the following alternatives in accordance with the dispositional structure set forth  
10 in G.S. 7B-2505:

11 (1) In the case of any juvenile who needs more adequate care or supervision  
12 or who needs placement, the judge may:

13 a. Require that a juvenile be supervised in the juvenile's own home  
14 by the department of social services in the juvenile's county, a  
15 court counselor, or other personnel as may be available to the  
16 court, subject to conditions applicable to the parent, guardian, or  
17 custodian or the juvenile as the judge may specify; or

18 b. Place the juvenile in the custody of a parent, guardian, custodian,  
19 relative, private agency offering placement services, or some  
20 other suitable person; or

21 c. Place the juvenile in the custody of the department of social  
22 services in the county of his residence, or in the case of a juvenile  
23 who has legal residence outside the State, in the physical custody  
24 of a department of social services in the county where the  
25 juvenile is found so that agency may return the juvenile to the  
26 responsible authorities in the juvenile's home state. The director  
27 may, unless otherwise ordered by the judge, arrange for, provide,  
28 or consent to, needed routine or emergency medical or surgical  
29 care or treatment. In the case where the parent is unknown,  
30 unavailable, or unable to act on behalf of the child or children,  
31 the director may, unless otherwise ordered by the judge, arrange  
32 for, provide, or consent to any psychiatric, psychological,  
33 educational, or other remedial evaluations or treatment for the  
34 juvenile placed by a judge or his designee in the custody or  
35 physical custody of a county department of social services under  
36 the authority of this or any other Chapter of the General Statutes.  
37 Prior to exercising this authority, the director shall make  
38 reasonable efforts to obtain consent from a parent or guardian of  
39 the affected child. If the director cannot obtain such consent, the  
40 director shall promptly notify the parent or guardian that care or  
41 treatment has been provided and shall give the parent or guardian  
42 frequent status reports on the circumstances of the child. Upon  
43 request of a parent or guardian of the affected child, the results or

1                    records of the aforementioned evaluations, findings, or treatment  
2                    shall be made available to such parent or guardian by the director  
3                    unless prohibited by G.S. 122C-53(d).

4            (2)   Excuse the juvenile from compliance with the compulsory school  
5            attendance law when the court finds that suitable alternative plans can  
6            be arranged by the family through other community resources for one of  
7            the following: an education related to the needs or abilities of the  
8            juvenile including vocational education or special education; a suitable  
9            plan of supervision or placement; or some other plan that the court finds  
10           to be in the best interests of the juvenile.

11           (3)   Order the juvenile to cooperate with a community-based program or a  
12           professional residential or nonresidential treatment program.  
13           Participation in the programs shall not exceed 12 months.

14           (4)   Require restitution, full or partial, payable within a 12-month period to  
15           any person who has suffered loss or damage as a result of the offense  
16           committed by the juvenile. The court may determine the amount, terms,  
17           and conditions of the restitution. If the juvenile participated with another  
18           person or persons, all participants should be jointly and severally  
19           responsible for the payment of restitution; however, the court shall not  
20           require the juvenile to make restitution if the juvenile satisfies the court  
21           that the juvenile does not have, and could not reasonably acquire, the  
22           means to make restitution.

23           (5)   Impose a fine related to the seriousness of the juvenile's offense. If the  
24           juvenile has the ability to pay the fine, it shall not exceed the maximum  
25           fine for the offense if committed by an adult.

26           (6)   Order the juvenile to perform supervised community service consistent  
27           with the juvenile's age, skill, and ability, specifying the nature of the  
28           work and the number of hours required. The work shall be related to the  
29           seriousness of the juvenile's offense and in no event may the obligation  
30           to work exceed 12 months.

31           (7)   Order the juvenile to participate in the victim-offender reconciliation  
32           program.

33           (8)   Place the juvenile on probation under the supervision of a court  
34           counselor, as specified in G.S. 7B-2506.

35           (9)   Order that the juvenile shall not be licensed to operate a motor vehicle  
36           in the State of North Carolina for as long as the court retains jurisdiction  
37           over the juvenile or for any shorter period of time and notify the  
38           Division of Motor Vehicles of that order.

39           (10)   Impose a curfew upon the juvenile.

40           (11)   Order the juvenile to cooperate with placement in a residential treatment  
41           facility or in a group home other than a multipurpose group home  
42           operated by a State agency.

43           (12)   Order the juvenile to cooperate with placement in a wilderness program.

- 1           (13) Impose confinement on an intermittent basis in an approved detention  
2 facility. Confinement shall be limited to not more than five 24-hour  
3 periods, the timing of which is determined by the court in its discretion.  
4           (14) Place the juvenile on intensive probation under the supervision of a  
5 court counselor.  
6           (15) Order the juvenile to cooperate with a supervised day program requiring  
7 the juvenile to be present at a specified place for all or part of every day  
8 or of certain days. The court also may require the juvenile to comply  
9 with any other reasonable conditions specified in the dispositional order  
10 that are designed to facilitate supervision.  
11           (16) Order the juvenile to participate in a regimented training program.  
12           (17) Order the juvenile to submit to house arrest.  
13           (18) Suspend imposition of a more severe, statutorily permissible disposition  
14 with the provision that the juvenile meet certain conditions agreed to by  
15 the juvenile and specified in the dispositional order. The conditions shall  
16 not exceed the allowable dispositions for the level under which  
17 disposition is being imposed.  
18           (19) Order that the juvenile be confined in a secure juvenile detention facility  
19 for a term of up to 14 24-hour periods, which confinement shall not be  
20 imposed consecutively with intermittent confinement pursuant to  
21 subdivision (13) of this section at the same dispositional hearing.  
22           (20) Order the residential placement of a juvenile in a multipurpose group  
23 home operated by a State agency.  
24           (21) Commit the juvenile to the Division of Youth Services in accordance  
25 with G.S. 7B-2509 for a period of not less than six months.

26 **"§ 7B-2504.1. Delinquency history levels.**

- 27           (a) Generally. – The delinquency history level for a delinquent juvenile is  
28 determined by calculating the sum of the points assigned to each of the juvenile's prior  
29 adjudications and to the juvenile's probation status, if any, that the court finds to have  
30 been proved in accordance with this section.  
31           (b) Points. – Points are assigned as follows:  
32           (1) For each prior adjudication of a Class A through E felony offense, 4  
33 points.  
34           (2) For each prior adjudication of a Class F through I felony offense or  
35 Class A1 misdemeanor offense, 2 points.  
36           (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1  
37 point.  
38           (4) If the juvenile was on probation at the time of adjudication, 2 points.  
39           (c) Delinquency History Levels. – The delinquency history levels are:  
40           (1) Low – 0 points.  
41           (2) Medium – At least 1, but not more than 3 points.  
42           (3) High – At least 4 points.

1 In determining the delinquency history level, the classification of a prior offense is the  
2 classification assigned to that offense at the time the juvenile committed the offense for  
3 which disposition is being ordered.

4 (d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of  
5 determining the delinquency history level, if a juvenile is adjudicated delinquent for more  
6 than one offense in a single session of district court, only the adjudication for the offense  
7 with the highest point total is used.

8 (e) Classification of Prior Adjudications From Other Jurisdictions. – Except as  
9 otherwise provided in this subsection, an adjudication occurring in a jurisdiction other  
10 than North Carolina is classified as a Class I felony if the jurisdiction in which the  
11 offense occurred classifies the offense as a felony, or is classified as a Class 3  
12 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a  
13 misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense  
14 classified as a felony in the other jurisdiction is substantially similar to an offense that is a  
15 misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for  
16 assigning delinquency history level points. If the State proves by the preponderance of  
17 the evidence that an offense classified as either a misdemeanor or a felony in the other  
18 jurisdiction is substantially similar to an offense in North Carolina that is classified as a  
19 Class I felony or higher, the conviction is treated as that class of felony for assigning  
20 delinquency history level points. If the State proves by the preponderance of the evidence  
21 that an offense classified as a misdemeanor in the other jurisdiction is substantially  
22 similar to an offense classified as a Class A1 misdemeanor in North Carolina, the  
23 adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level  
24 points.

25 (f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of  
26 the following methods:

27 (1) Stipulation of the parties.

28 (2) An original or copy of the court record of the prior adjudication.

29 (3) A copy of records maintained by the Division of Criminal Information  
30 or of the Administrative Office of the Courts.

31 (4) Any other method found by the court to be reliable.

32 The State bears the burden of proving, by a preponderance of the evidence, that a  
33 prior adjudication exists and that the juvenile before the court is the same person as the  
34 juvenile named in the prior adjudication. The original or a copy of the court records or a  
35 copy of the records maintained by the Division of Criminal Information or of the  
36 Administrative Office of the Courts, bearing the same name as that by which the juvenile  
37 is charged, is prima facie evidence that the juvenile named is the same person as the  
38 juvenile before the court, and that the facts set out in the record are true. For purposes of  
39 this subsection, 'a copy' includes a paper writing containing a reproduction of a record  
40 maintained electronically on a computer or other data processing equipment, and a  
41 document produced by a facsimile machine. The prosecutor shall make all feasible efforts  
42 to obtain and present to the court the juvenile's full record. Evidence presented by either  
43 party at trial may be utilized to prove prior adjudications. If asked by the juvenile, the

1 prosecutor shall furnish the juvenile's prior adjudications to the juvenile within a  
2 reasonable time sufficient to allow the juvenile to determine if the record available to the  
3 prosecutor is accurate.

4 **"§ 7B-2505. Dispositional limits for each class of offense and delinquency history**  
5 **level.**

6 (a) Offense Classification. – The offense classifications are as follows:

7 (1) Violent – adjudication of a Class A through E felony offense;

8 (2) Serious – adjudication of a Class F through I felony offense or a Class  
9 A1 misdemeanor;

10 (3) Minor – adjudication of a Class 1, 2, or 3 misdemeanor.

11 (b) Delinquency History Levels. – A delinquency history level shall be determined  
12 for each delinquent juvenile as provided in G.S. 7B-2504.1.

13 (c) Level 1 – Community Disposition. – A court exercising jurisdiction over a  
14 juvenile who has been adjudicated delinquent and for whom the dispositional chart in  
15 subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation  
16 and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives  
17 contained in subdivisions (1) through (13) of G.S. 7B-2504. In determining which  
18 dispositional alternative is appropriate, the court shall consider the needs of the juvenile,  
19 the appropriate community resources available to meet those needs, and the protection of  
20 the public.

21 (d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a  
22 juvenile who has been adjudicated delinquent and for whom the dispositional chart in  
23 subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation  
24 and treatment under G.S. 7B-2500.2 and for any of the dispositional alternatives  
25 contained in subdivisions (1) through (20) of G.S. 7B-2504, but shall provide for at least  
26 one of the intermediate dispositions authorized in subdivisions (12) and (14) through (20)  
27 of G.S. 7B-2504. In determining which dispositional alternative is appropriate, the court  
28 shall consider the needs of the juvenile, the appropriate community resources available to  
29 meet those needs, and the protection of the public.

30 (e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who  
31 has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of  
32 this section prescribes a Level 3 disposition shall commit the juvenile to the Division of  
33 Youth Services in accordance with G.S. 7B-2504(21). However, a court may impose a  
34 Level 2 disposition rather than a Level 3 disposition if the court submits written findings  
35 on the record that substantiate extraordinary needs on the part of the offending juvenile.

36 (f) Dispositions for Each Class of Offense and Delinquency History Level;  
37 Disposition Chart Described. – The authorized disposition for each class of offense and  
38 delinquency history level is as specified in the chart below. Delinquency history levels  
39 are indicated horizontally on the top of the chart. Classes of offense are indicated  
40 vertically on the left side of the chart. Each cell on the chart indicates which of the  
41 dispositional levels described in subsections (c) through (e) of this section are prescribed  
42 for that combination of offense classification and delinquency history level:

DELINQUENCY HISTORYOFFENSELOWMEDIUMHIGHVIOLENTLevel 2 or 3Level 3Level 3SERIOUSLevel 1 or 2Level 2Level 2 or 3MINORLevel 1Level 1 or 2Level 2.

(g) The court may consider as a mitigating factor evidence of a juvenile's cooperation with law enforcement in providing information about other persons with whom the juvenile acted in the commission of the offense for which the juvenile was adjudicated. A mitigating factor may be used in determining the appropriate dispositional options within the level prescribed by the dispositional chart in subsection (f) of this section.

**§ 7B-2506. Conditions of probation; violation of probation.**

(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2504(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 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 remain free of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act, and the juvenile submit to random drug testing.
- (6) That the juvenile abide by a prescribed curfew.
- (7) That the juvenile submit to a warrantless search at reasonable times.
- (8) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (9) That the juvenile report to a court counselor as often as required by a court counselor.
- (10) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2504(4) and (5).



1           (11) That the juvenile be employed regularly if not attending school.

2           (12) That the juvenile satisfy any other conditions determined appropriate by  
3           the court.

4           (b) In addition to the regular conditions of probation specified in subsection (a) of  
5 this section, the court may order the juvenile to comply, if directed to comply by the court  
6 counselor, with one or more of the following conditions:

7           (1) Perform up to 20 hours of community service;

8           (2) Submit to substance abuse monitoring and treatment;

9           (3) Cooperate with electronic monitoring;

10          (4) Cooperate with intensive supervision; and

11          (5) Participate in a life skills or an educational skills program administered  
12          by the department.

13          (c) An order of probation shall remain in force for a period not to exceed two  
14 years from the date entered. Prior to expiration of an order of probation, the court may  
15 extend it for an additional period of one year after a hearing if the court finds that the  
16 extension is necessary to protect the community or to safeguard the welfare of the  
17 juvenile.

18          (d) If the juvenile violates the conditions of probation set by the court, the court  
19 may elect to continue the original conditions of probation, modify the conditions of  
20 probation, or, except as provided in subsection (e) of this section, order a new disposition  
21 at the next higher level on the disposition chart in G.S. 7B-2505. In the court's discretion,  
22 part of the new disposition may include an order of confinement in a secure juvenile  
23 detention facility for up to twice the term authorized by G.S. 7B-2505.

24 **"§ 7B-2507. Probation review.**

25          The court may review the progress of any juvenile on probation at any time during the  
26 period of probation or at the end of probation. Except as provided in G.S. 7B-2506, the  
27 conditions or duration of probation may be modified only as provided in this Subchapter  
28 and only after there is notice and a hearing. If a juvenile violates the conditions of  
29 probation, the juvenile and the juvenile's parent, guardian, or custodian after notice may  
30 be required to appear before the court and the court may make any disposition of the  
31 matter authorized by this Subchapter. At the end of or at any time during probation, the  
32 court may terminate probation by written order upon finding that there is no further need  
33 for supervision. The finding and order terminating probation may be entered in chambers  
34 in the absence of the juvenile and may be based on a report from the court counselor or,  
35 at the election of the court, the order may be entered with the juvenile present after notice  
36 and a hearing.

37 **"§ 7B-2508. Dispositional order.**

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

43 **"§ 7B-2509. Commitment of delinquent juvenile to Division of Youth Services.**

1 (a) Pursuant to G.S. 7B-2504 and G.S. 7B-2505, the court may commit a  
2 delinquent juvenile who is at least 10 years of age to the Division of Youth Services for  
3 placement in one of the residential facilities operated by the Division. Commitment shall  
4 be for a definite or indefinite term of at least six months. In no event shall the term  
5 exceed the nineteenth birthday of the juvenile.

6 (b) The court may commit a juvenile to a definite term of not more than two years  
7 if the court finds that the juvenile is 14 years of age or older, has been previously  
8 adjudicated delinquent for two or more felony offenses, and has been previously  
9 committed to a residential facility operated by the Division of Youth Services.

10 (c) The chief court counselor shall have the responsibility for transporting the  
11 juvenile to the residential facility designated by the Division of Youth Services. The  
12 juvenile shall be accompanied to the residential facility by a person of the same sex.

13 (d) The chief court counselor shall ensure that the records requested by the  
14 Director of Youth Services accompany the juvenile upon transportation for admittance to  
15 a training school or, if not obtainable at the time of admission, are sent to the training  
16 school within 15 days of the admission. If records requested by the Division of Youth  
17 Services for admission do not exist, to the best knowledge of the chief court counselor,  
18 the chief court counselor shall so stipulate in writing to the training school. If such  
19 records do exist, but the chief court counselor is unable to obtain copies of them, a district  
20 court may order that the records from public agencies be made available to the training  
21 school. Records that are confidential by law shall remain confidential and the Division of  
22 Youth Services shall be bound by the specific laws governing the confidentiality of these  
23 records. All records shall be used in a manner consistent with the best interests of the  
24 juvenile.

25 (e) A commitment order accompanied by information requested by the Director  
26 shall be forwarded to the Division. The Director shall place the juvenile in the residential  
27 facility that would best provide for the juvenile's needs and shall notify the committing  
28 court. The Secretary may assign a juvenile committed for delinquency to any institution  
29 or other program of the Department or licensed by the Department, which program is  
30 appropriate to the needs of the juvenile.

31 (f) When the court commits a juvenile to the Division of Youth Services, the  
32 Director shall prepare a plan for care or treatment within 30 days after assuming custody  
33 of the juvenile.

34 (g) Commitment of a juvenile to the Division of Youth Services does not terminate  
35 the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or  
36 custodian. Commitment of a juvenile to the Division of Youth Services transfers only  
37 physical custody of the juvenile to the Division. Legal custody remains with the parent,  
38 guardian, custodian, agency, or institution in whom it was vested.

39 (h) Pending placement of a juvenile with the Division of Youth Services, the court  
40 may house a juvenile who has been adjudicated delinquent for an offense that would be a  
41 Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to  
42 72 hours if the court, based on the information provided by the court counselor,

1 determines that no acceptable alternative placement is available and the protection of the  
2 public requires that the juvenile be housed in a holdover facility.

3 **"§ 7B-2510. Post-release supervision planning; hearing.**

4 (a) The Director of the Division of Youth Services shall be responsible for  
5 evaluation of the progress of each juvenile at least once every six months as long as the  
6 juvenile remains in the care of the Division. If the Director determines that a juvenile is  
7 ready for release, the Director, in consultation with the court counselor, shall initiate a  
8 post-release supervision planning process. The post-release supervision planning process  
9 shall be defined by rules and regulations of the Division of Youth Services, but shall  
10 include the following:

11 (1) Written notification shall be given to the court that ordered  
12 commitment.

13 (2) A post-release supervision planning conference shall be held involving  
14 as many as possible of the following: the juvenile, the juvenile's parent,  
15 guardian, or custodian, court counselors who have supervised the  
16 juvenile on probation or will supervise the juvenile on post-release  
17 supervision, and staff of the facility that found the juvenile ready for  
18 release. The planning conference shall include personal contact and  
19 evaluation rather than telephonic notification.

20 (3) The planning conference participants shall consider, based on the  
21 individual needs of the juvenile and pursuant to rules adopted by the  
22 Division, placement of the juvenile in any program under the auspices  
23 of the Division, including the Community-Based Alternatives programs,  
24 or under the Department, that, in the judgment of the Division, may  
25 serve as a transitional placement, pending release under G.S. 7B-2512.

26 (b) The Division, in consultation with the court counselor, shall develop the plan  
27 in writing and base the terms on the needs of the juvenile and the protection of the public.  
28 Every plan shall require the juvenile to complete at least 90 days of post-release  
29 supervision. At least 45 days prior to release, the Division shall provide a copy of the  
30 plan to the juvenile, the juvenile's parent, guardian, or custodian, the chief district court  
31 judge, the district attorney, and the court counselor who will provide post-release  
32 supervision. Within 10 days of receipt of the plan, the juvenile, the court counselor, or the  
33 prosecutor may file a motion to request a hearing to determine whether release of the  
34 juvenile to post-release supervision is appropriate. If no motion is filed and the court  
35 does not initiate a hearing on its own motion, the plan shall become effective and the  
36 juvenile shall be released as scheduled.

37 (c) Within 10 days of the filing of the motion, the court shall conduct a post-  
38 release supervision hearing to determine whether release of the juvenile to post-release  
39 supervision is appropriate. After review of the plan, the court shall order the conditions  
40 of post-release supervision if it finds the juvenile should be placed on post-release  
41 supervision. The juvenile, the juvenile's attorney, and the juvenile's parent, guardian, or  
42 custodian shall be notified in writing of the hearing at least 10 days prior to the scheduled  
43 hearing date. The court counselor and the prosecutor shall attend the hearing and, if the

1 court requests, present testimony or evidence as to whether the juvenile has completed  
2 the plan for care or treatment developed pursuant to G.S. 7B-2509.

3 (d) The court shall release a juvenile under a plan of post-release supervision at  
4 least 90 days prior to the later of:

5 (1) Completion of the juvenile's definite term of commitment; or

6 (2) If the juvenile is committed for an indefinite term, either on the  
7 juvenile's eighteenth birthday if no motion for extended jurisdiction has  
8 been filed pursuant to G.S. 7B-2513 or on the juvenile's nineteenth  
9 birthday.

10 (e) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, before  
11 the court releases a juvenile who is serving a commitment for a Class A or B1 felony to  
12 post-release supervision, the Division shall notify, at least 45 days in advance of the  
13 scheduled release date, by first-class mail at the last known address:

14 (1) The juvenile;

15 (2) The juvenile's parent, guardian, or custodian;

16 (3) The district attorney of the district where the juvenile was adjudicated;

17 (4) The head law enforcement agency that took the juvenile into custody;  
18 and

19 (5) The victim and any of the victim's immediate family members who have  
20 requested in writing to be notified.

21 The notification shall include only the juvenile's name, offense, date of commitment,  
22 and date of any scheduled release hearing. A copy of the notice shall be placed in the  
23 juvenile's file.

24 (f) The court may release a juvenile under an indefinite commitment to post-  
25 release supervision only after the juvenile has been committed for a period of at least six  
26 months.

27 (g) A juvenile committed to the Division of Youth Services for a definite term  
28 shall receive credit toward that term for the time the juvenile spends on post-release  
29 supervision.

30 **"§ 7B-2511. Revocation of post-release supervision.**

31 If a juvenile fails to complete the terms of post-release supervision, the court  
32 counselor providing post-release supervision may make a motion for review in the court  
33 in the district where the juvenile has been residing during post-release supervision. The  
34 court shall hold a hearing to determine whether there has been a violation. With respect to  
35 any hearing pursuant to this section, the juvenile:

36 (1) Shall have reasonable notice in writing of the nature and content of the  
37 allegations in the motion, including notice that the purpose of the  
38 hearing is to determine whether the juvenile has violated the terms of  
39 post-release supervision to the extent that post-release supervision  
40 should be revoked;

41 (2) Shall be represented by an attorney at the hearing;

42 (3) Shall have the right to confront and cross-examine any persons who  
43 have made allegations against the juvenile; and

1           (4) May admit, deny, or explain the violation alleged and may present  
2           proof, including affidavits or other evidence, in support of the juvenile's  
3           contentions. A record of the proceeding shall be made and preserved in  
4           the juvenile's record.

5           If the court determines that the juvenile has violated the terms of post-release  
6           supervision, the court may revoke the post-release supervision or make any other  
7           disposition authorized by this Subchapter.

8           If the court revokes the post-release supervision, the chief court counselor shall have  
9           the responsibility for returning the juvenile to the facility specified by the Division of  
10          Youth Services.

11          **"§ 7B-2512. Final discharge.**

12          (a) The court shall release a juvenile from the custody of the Division of Youth  
13          Services only after the juvenile completes post-release supervision or when the juvenile is  
14          released to the Department of Correction pursuant to G.S. 15A-1340.16B.

15          (b) Notwithstanding the provisions of this section, in no event shall a juvenile  
16          remain committed after the juvenile's eighteenth birthday except pursuant to G.S. 7B-  
17          2513.

18          **"§ 7B-2513. Extended jurisdiction under certain circumstances; review hearing.**

19          (a) By order of the court, juvenile court jurisdiction over a juvenile may be  
20          extended past the age of 18 years until the person reaches the person's nineteenth  
21          birthday. The provisions of this Subchapter shall apply to any person under the  
22          jurisdiction of the juvenile court pursuant to this section, regardless of whether the term  
23          'person' or 'juvenile' is used in the provision.

24          (b) When the chief court counselor, or the Division of Youth Services if the  
25          juvenile is committed to the Division, determines a juvenile should remain under the  
26          jurisdiction of the court for a period of time after the age of 18 years, the chief court  
27          counselor or Division shall file a motion for a review hearing in the judicial district where  
28          the juvenile was adjudicated. This motion shall be filed at least 180 days prior to the  
29          eighteenth birthday of the juvenile. The chief court counselor or Division shall notify the  
30          juvenile, the juvenile's attorney, and the juvenile's parent, guardian, or custodian in  
31          writing of the date and time of the scheduled hearing at least 10 days prior to the  
32          scheduled hearing date.

33          (c) Within 30 days after the motion is filed, the court shall conduct a review  
34          hearing to determine whether the juvenile shall remain under the jurisdiction of the court.  
35          The court counselor and the prosecutor shall attend the hearing and, if the court requests,  
36          present testimony or evidence as to whether the juvenile continues to be in need of and  
37          can benefit from further treatment or services.

38          (d) In determining whether to order that the juvenile remain under the jurisdiction  
39          of the court, the court shall consider:

40               (1) The recommendation of the chief court counselor or the Director of the  
41               Division of Youth Services based on the juvenile's progress;

42               (2) The likelihood that continued jurisdiction will lead to further  
43               rehabilitation;

1           (3) The safety and protection of the facility's juvenile population, if  
2           applicable; and

3           (4) The protection of the public.

4           (e) If the court orders the juvenile remain under the jurisdiction of the court and  
5 the juvenile is committed to the Division of Youth Services, commitment shall be for a  
6 definite term or an indefinite term not to exceed the nineteenth birthday of the person.

7           (f) The Director shall modify the plan for care or treatment of the juvenile  
8 prepared pursuant to G.S. 7B-2509.

9 **"§ 7B-2514. Transfer authority of Governor.**

10          The Governor may order transfer of any person less than 18 years of age from any jail  
11 or penal facility of the State to one of the residential facilities operated by the Division of  
12 Youth Services in appropriate circumstances, provided the Governor shall consult with  
13 the Department concerning the feasibility of the transfer in terms of available space, staff,  
14 and suitability of program.

15          When an inmate, committed to the Department of Correction, is transferred by the  
16 Governor to a residential program operated by the Division of Youth Services, the  
17 Division of Youth Services may release the juvenile based on the needs of the juvenile  
18 and the best interests of the State. Transfer shall not divest the probation or parole officer  
19 of the officer's responsibility to supervise the inmate on release.

20                                   "ARTICLE 26.

21                                   "Modification and Enforcement of Dispositional Orders; Appeals.

22 **"§ 7B-2600. Authority to modify or vacate.**

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

27           (b) In a case of delinquency, the court may reduce the nature or the duration of the  
28 disposition on the basis that it was imposed in an illegal manner or is unduly severe with  
29 reference to the seriousness of the offense, the culpability of the juvenile, or the  
30 dispositions given to juveniles convicted of similar offenses.

31           (c) In any case where the court finds the juvenile to be delinquent or undisciplined,  
32 the jurisdiction of the court to modify any order or disposition made in the case shall  
33 continue (i) during the minority of the juvenile, (ii) until the juvenile reaches the age of  
34 19 years, if the court has extended jurisdiction, or (iii) until terminated by order of the  
35 court.

36 **"§ 7B-2601. Request for modification for lack of suitable services.**

37          If the Director of the Division of Youth Services finds that any juvenile committed to  
38 the Division's care is not suitable for its program, the Director may make a motion in the  
39 cause so that the court may make an alternative disposition that is consistent with G.S.  
40 7B-2505.

41 **"§ 7B-2602. Right to appeal.**

42          Upon motion of a proper party as defined in G.S. 7B-2603, review of any final order  
43 of the court in a juvenile matter under this Article shall be before the Court of Appeals.

1 Notice of appeal shall be given in open court at the time of the hearing or in writing  
2 within 10 days after entry of the order. However, if no disposition is made within 60 days  
3 after entry of the order, written notice of appeal may be given within 70 days after such  
4 entry. A final order shall include:

5 (1) Any order finding absence of jurisdiction;

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

8 (3) Any order of disposition after an adjudication that a juvenile is  
9 delinquent or undisciplined; or

10 (4) Any order modifying custodial rights.

11 **"§ 7B-2603. Proper parties for appeal.**

12 An appeal may be taken by the juvenile, the juvenile's parent, guardian, or custodian,  
13 or the State or county agency. The State's appeal is limited to the following orders in  
14 delinquency or undisciplined cases:

15 (1) An order finding a State statute to be unconstitutional; and

16 (2) Any order which terminates the prosecution of a petition by upholding  
17 the defense of double jeopardy, by holding that a cause of action is not  
18 stated under a statute, or by granting a motion to suppress.

19 **"§ 7B-2604. Disposition pending appeal.**

20 Pending disposition of an appeal, the release of the juvenile, with or without  
21 conditions, should issue in every case unless the court orders otherwise. For compelling  
22 reasons which must be stated in writing, the court may enter a temporary order affecting  
23 the custody or placement of the juvenile as the court finds to be in the best interests of the  
24 juvenile or the State.

25 **"§ 7B-2605. Disposition after appeal.**

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

34 **"ARTICLE 27.**

35 **"Authority Over Parents of Juveniles Adjudicated Delinquent or Undisciplined.**

36 **"§ 7B-2700. Appearance in court.**

37 (a) The parent, guardian, or custodian of a juvenile under the jurisdiction of the  
38 juvenile court shall attend the hearings of which the parent, guardian, or custodian  
39 receives notice. The court may excuse the appearance of either or both parents or the  
40 guardian or custodian at subsequent hearings. Unless so excused, the willful failure of a  
41 parent, guardian, or custodian to attend a hearing of which the parent, guardian, or  
42 custodian has notice shall be grounds for contempt.

1 (b) No employer may discharge or demote any employee because the employee is  
2 required to appear in court pursuant to this section. Any employer who violates any  
3 provision of this section shall be liable in a civil action for reasonable damages suffered  
4 by an employee as a result of the violation, and an employee discharged or demoted in  
5 violation of this section shall be entitled to be reinstated to the employee's former  
6 position. The burden of proof shall be upon the employee. The statute of limitations for  
7 actions under this section shall be one year pursuant to G.S. 1-54.

8 **"§ 7B-2701. Parental responsibility classes.**

9 The court may order the parent of a juvenile who has been adjudicated undisciplined  
10 or delinquent to attend parental responsibility classes if those classes are available in the  
11 judicial district in which the parent resides.

12 **"§ 7B-2702. Medical, surgical, psychiatric, or psychological evaluation or treatment**  
13 **of juvenile or parent.**

14 (a) If the court orders medical, surgical, psychiatric, psychological, or other  
15 evaluation or treatment pursuant to G.S. 7B-2500.2, the court may order the parent or  
16 other responsible parties to pay the cost of the treatment or care ordered.

17 (b) At the dispositional hearing or a subsequent hearing, if the court finds that it is  
18 in the best interests of the juvenile for the parent, guardian, or custodian to be directly  
19 involved in the juvenile's evaluation or treatment, the court may order that person to  
20 participate in medical, psychiatric, psychological, or other evaluation or treatment of the  
21 juvenile. The cost of the evaluation or treatment shall be paid pursuant to G.S. 7B-  
22 2500.2.

23 (c) At the dispositional hearing or a subsequent hearing, the court may determine  
24 whether the best interests of the juvenile require that the parent, guardian, or custodian  
25 undergo psychiatric, psychological, or other evaluation or treatment or counseling  
26 directed toward remedying behaviors or conditions that led to or contributed to the  
27 juvenile's adjudication or to the court's decision to remove custody of the juvenile from  
28 the parent, guardian, or custodian. If the court finds that the best interests of the juvenile  
29 require the parent, guardian, or custodian undergo evaluation or treatment, it may order  
30 that person to comply with a plan of evaluation or treatment approved by the court or  
31 condition legal custody or physical placement of the juvenile with the parent, guardian, or  
32 custodian upon that person's compliance with the plan of evaluation or treatment.

33 (d) In cases in which the court has ordered the parent of the juvenile, rather than a  
34 guardian or custodian, to comply with or undergo evaluation or treatment, the court may  
35 order the parent to pay the cost of evaluation or treatment ordered pursuant to this  
36 subsection. In cases in which the court has conditioned legal custody or physical  
37 placement of the juvenile with the parent upon the parent's compliance with a plan of  
38 evaluation or treatment, the court may charge the cost of the evaluation or treatment to  
39 the county of the juvenile's residence if the court finds the parent is unable to pay the cost  
40 of the evaluation or treatment. In all other cases, if the court finds the parent is unable to  
41 pay the cost of the evaluation or treatment ordered pursuant to this subsection, the court  
42 may order the parent to receive evaluation or treatment currently available from the area  
43 mental health program that serves the parent's catchment area.



1 **"§ 7B-2703. Compliance with orders of court.**

2 (a) The court may order the parent, guardian, or custodian, to the extent that  
3 person is able to do so, to provide transportation for a juvenile to keep an appointment  
4 with a court counselor or to comply with other orders of the court.

5 (b) The court may order a parent, guardian, or custodian to cooperate with and  
6 assist the juvenile in complying with the terms and conditions of probation or other  
7 orders of the court.

8 **"§ 7B-2704. Payment of support or other expenses; assignment of insurance**  
9 **coverage.**

10 At the dispositional hearing or a subsequent hearing, if the court finds that the parent  
11 is able to do so, the court may order the parent to:

12 (1) Pay a reasonable sum that will cover in whole or in part the support of  
13 the juvenile. If the court requires the payment of child support, the  
14 amount of the payments shall be determined as provided in G.S. 50-  
15 13.4;

16 (2) Pay a fee for probation supervision or residential facility costs;

17 (3) Assign private insurance coverage to cover medical costs while the  
18 juvenile is in secure detention, training school, or other out-of-home  
19 placement; and

20 (4) Pay court-appointed attorneys' fees.

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

26 **"§ 7B-2705. Contempt for failure to comply.**

27 Upon motion of the court counselor or prosecutor or upon the court's own motion, the  
28 court may issue an order directing the parent, guardian, or custodian to appear and show  
29 cause why the parent, guardian, or custodian should not be found or held in civil or  
30 criminal contempt for willfully failing to comply with an order of the court. Chapter 5A  
31 of the General Statutes shall govern contempt proceedings initiated pursuant to this  
32 Article.

33 **"ARTICLE 28.**

34 **"Interstate Compact on Juveniles.**

35 **"§ 7B-2800. Execution of Compact.**

36 The Governor is hereby authorized and directed to execute a Compact on behalf of  
37 this State with any other state or states legally joining therein in the form substantially as  
38 follows: The contracting states solemnly agree.

39 **"§ 7B-2801. Findings and purposes.**

40 Juveniles who are not under proper supervision and control, or who have absconded,  
41 escaped, or run away, are likely to endanger their own health, morals, and welfare, and  
42 the health, morals, and welfare of others. The cooperation of the states party to this

1 Compact is therefore necessary to provide for the welfare and protection of juveniles and  
2 of the public with respect to:

- 3 (1) Cooperative supervision of delinquent juveniles on probation or parole;
- 4 (2) The return, from one state to another, of delinquent juveniles who have  
5 escaped or absconded;
- 6 (3) The return, from one state to another, of nondelinquent juveniles who  
7 have run away from home; and
- 8 (4) Additional measures for the protection of juveniles and of the public,  
9 which any two or more of the party states may find desirable to  
10 undertake cooperatively.

11 In carrying out the provisions of this Compact, the party states shall be guided by the  
12 noncriminal, reformatory, and protective policies which guide their laws concerning  
13 delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states  
14 party to this Compact to cooperate and observe their respective responsibilities for the  
15 prompt return and acceptance of juveniles and delinquent juveniles who become subject  
16 to the provisions of this Compact. The provisions of this Compact shall be reasonably  
17 and liberally construed to accomplish the foregoing purposes.

18 **"§ 7B-2802. Existing rights and remedies.**

19 All remedies and procedures provided by this Compact are in addition to and not in  
20 substitution for other rights, remedies, and procedures and are not in derogation of  
21 parental rights and responsibilities.

22 **"§ 7B-2803. Definitions.**

23 For the purposes of this Compact, 'delinquent juvenile' means any juvenile who has  
24 been adjudged delinquent and who, at the time the provisions of this Compact are  
25 invoked, is still subject to the jurisdiction of the court that has made adjudication or to the  
26 jurisdiction or supervision of an agency or institution pursuant to an order of the court;  
27 'probation or parole' means any kind of post-release supervision of juveniles authorized  
28 under the laws of the states party hereto; 'court' means any court having jurisdiction over  
29 delinquent, neglected, or dependent children; 'state' means any state, territory, or  
30 possession of the United States, the District of Columbia, and the Commonwealth of  
31 Puerto Rico; and 'residence' or any variant thereof means a place at which a home or  
32 regular place of abode is maintained.

33 **"§ 7B-2804. Return of runaways.**

34 (a) The parent, guardian, person, or agency entitled to legal custody of a juvenile  
35 who has not been adjudged delinquent but who has run away without the consent of the  
36 parent, guardian, person, or agency may petition the appropriate court in the demanding  
37 state for the issuance of a requisition for the juvenile's return. The petition shall state the  
38 name and age of the juvenile, the name of the petitioner and the basis of entitlement to  
39 the juvenile's custody, the circumstances of the running away, the juvenile's location if  
40 known at the time application is made, and any other facts that may tend to show that the  
41 juvenile who has run away is endangering the juvenile's own welfare or the welfare of  
42 others and is not an emancipated minor. The petition shall be verified by affidavit, shall  
43 be executed in duplicate, and shall be accompanied by two certified copies of the

1 document or documents on which the petitioner's entitlement to the juvenile's custody is  
2 based, such as birth certificates, letters of guardianship, or custody decrees. Any further  
3 affidavits and other documents as may be deemed proper may be submitted with the  
4 petition. The judge of the court to which this application is made may hold a hearing  
5 thereon to determine whether for the purposes of this Compact the petitioner is entitled to  
6 the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run  
7 away without consent, whether or not the juvenile is an emancipated minor, and whether  
8 or not it is in the best interests of the juvenile to compel the juvenile's return to the state.  
9 If the judge determines, either with or without a hearing, that the juvenile should be  
10 returned, the judge shall present to the appropriate court or to the executive authority of  
11 the state where the juvenile is alleged to be located a written requisition for the return of  
12 the juvenile. The requisition shall set forth the name and age of the juvenile, the  
13 determination of the court that the juvenile has run away without the consent of a parent,  
14 guardian, person, or agency entitled to legal custody, and that it is in the best interests and  
15 for the protection of the juvenile that the juvenile be returned. In the event that a  
16 proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent  
17 juvenile is pending in the court at the time when the juvenile runs away, the court may  
18 issue a requisition for the return of the juvenile upon its own motion, regardless of the  
19 consent of the parent, guardian, person, or agency entitled to legal custody, reciting  
20 therein the nature and circumstances of the pending proceeding. The requisition shall in  
21 every case be executed in duplicate and shall be signed by the judge. One copy of the  
22 requisition shall be filed with the Compact Administrator of the demanding state, there to  
23 remain on file subject to the provisions of law governing records of the court. Upon the  
24 receipt of a requisition demanding the return of a juvenile who has run away, the court or  
25 the executive authority to whom the requisition is addressed shall issue an order to any  
26 peace officer or other appropriate person directing that person to take into custody and  
27 detain the juvenile. The detention order must substantially recite the facts necessary to the  
28 validity of its issuance hereunder. No juvenile detained upon the order shall be delivered  
29 over to the officer whom the court has appointed to receive the juvenile unless the  
30 juvenile first is taken before a judge of a court in the state, who shall inform the juvenile  
31 of the demand made for the juvenile's return, and who may appoint counsel or guardian  
32 ad litem for the juvenile. If the court finds that the requisition is in order, the court shall  
33 deliver the juvenile over to the officer appointed to receive the juvenile by the court  
34 demanding the juvenile. The court, however, may fix a reasonable time to be allowed for  
35 the purpose of testing the legality of the proceeding.

36 Upon reasonable information that a person is a juvenile who has run away from  
37 another state party to this Compact without the consent of a parent, guardian, person, or  
38 agency entitled to legal custody, the juvenile may be taken into custody without a  
39 requisition and brought before a judge of the appropriate court who may appoint counsel  
40 or guardian ad litem for the juvenile and who shall determine after a hearing whether  
41 sufficient cause exists to hold the person, subject to the order of the court, for the  
42 juvenile's own protection and welfare, for such a time not exceeding 90 days as will  
43 enable the return of the juvenile to another state party to this Compact pursuant to a

1 requisition for return from a court of that state. If, at the time when a state seeks the  
2 return of a juvenile who has run away, there is pending in the state wherein the juvenile is  
3 found, any criminal charge, or any proceeding to have the juvenile adjudicated a  
4 delinquent juvenile for an act committed in the state, or if the juvenile is suspected of  
5 having committed within the state a criminal offense or an act of juvenile delinquency,  
6 the juvenile shall not be returned without the consent of the state until discharged from  
7 prosecution or other form of proceeding, imprisonment, detention, or supervision for the  
8 offense or juvenile delinquency. The duly accredited officers of any state party to this  
9 Compact, upon the establishment of their authority and the identity of the juvenile being  
10 returned, shall be permitted to transport the juvenile through any and all states party to  
11 this Compact, without interference. Upon return of the juvenile to the state from which  
12 the juvenile ran away, the juvenile shall be subject to such further proceedings as may be  
13 appropriate under the laws of that state.

14 (b) The state to which the juvenile is returned under this Article shall be  
15 responsible for payment of the transportation costs of return.

16 (c) The term 'juvenile' as used in this Article means any person who is a minor  
17 under the law of the state of residence of the parent, guardian, person, or agency entitled  
18 to the legal custody of the minor.

19 **"§ 7B-2805. Return of escapees and absconders.**

20 (a) The appropriate person or authority from whose probation or parole  
21 supervision a delinquent juvenile has absconded or from whose institutional custody a  
22 delinquent juvenile has escaped shall present to the appropriate court or to the executive  
23 authority of the state where the delinquent juvenile is alleged to be located a written  
24 requisition for the return of the delinquent juvenile. The requisition shall state the name  
25 and age of the delinquent juvenile, the particulars of the juvenile's adjudication as a  
26 delinquent juvenile, the circumstances of the breach of the terms of probation or parole or  
27 of the juvenile's escape from an institution or agency vested with legal custody or  
28 supervision, and the location of the delinquent juvenile, if known, at the time the  
29 requisition is made. The requisition shall be verified by affidavit, shall be executed in  
30 duplicate, and shall be accompanied by two certified copies of the judgment, formal  
31 adjudication, or order of commitment which subjects the delinquent juvenile to probation  
32 or parole or to the legal custody of the institution or agency concerned. Any further  
33 affidavits and documents as may be deemed proper may be submitted with the  
34 requisition. One copy of the requisition shall be filed with the Compact Administrator of  
35 the demanding state, there to remain on file subject to the provisions of the law governing  
36 records of the appropriate court. Upon the receipt of a requisition demanding the return of  
37 a delinquent juvenile who has absconded or escaped, the court or the executive authority  
38 to whom the requisition is addressed shall issue an order to any peace officer or other  
39 appropriate person directing the person to take into custody and detain such delinquent  
40 juvenile. The detention order must substantially recite the facts necessary to the validity  
41 of its issuance hereunder. No delinquent juvenile detained upon the order shall be  
42 delivered over to the officer whom the appropriate person or authority demanding the  
43 juvenile has appointed to receive the juvenile, unless the juvenile is first taken forthwith

1 before a judge of an appropriate court in the state, who shall inform the juvenile of the  
2 demand made for the return and who may appoint counsel or guardian ad litem for the  
3 juvenile. If the judge of the court finds that the requisition is in order, the judge shall  
4 deliver the delinquent juvenile over to the officer whom the appropriate person or  
5 authority demanding the juvenile appointed to receive the juvenile. The judge, however,  
6 may fix a reasonable time to be allowed for the purpose of testing the legality of the  
7 proceeding.

8 Upon reasonable information that a person is a delinquent juvenile who has  
9 absconded while on probation or parole, or escaped from an institution or agency vested  
10 with legal custody or supervision in any state party to this Compact, the person may be  
11 taken into custody in any other state party to this Compact without a requisition. But in  
12 that event, the juvenile shall be taken forthwith before a judge of the appropriate court,  
13 who may appoint counsel or guardian ad litem for the person and who shall determine  
14 after a hearing, whether sufficient cause exists to hold the person subject to the order of  
15 the court for a length of time, not exceeding 90 days, as will enable detention of the  
16 juvenile under a detention order issued on a requisition pursuant to this Article. If, at the  
17 time when a state seeks the return of a delinquent who has either absconded while on  
18 probation or parole or escaped from an institution or agency vested with legal custody or  
19 supervision, there is pending in the state wherein the juvenile is detained any criminal  
20 charge or any proceeding to have the juvenile adjudicated a delinquent juvenile for an act  
21 committed in the state, or if the juvenile is suspected of having committed a criminal  
22 offense or an act of juvenile delinquency within the state, the juvenile shall not be  
23 returned without the consent of the state until discharged from prosecution or other form  
24 of proceeding, imprisonment, detention, or supervision for the offense or juvenile  
25 delinquency. The duly accredited officers of any state party to this Compact, upon the  
26 establishment of their authority and the identity of the delinquent juvenile being returned,  
27 shall be permitted to transport the delinquent juvenile through any and all states party to  
28 this Compact, without interference. Upon return to the state from which the juvenile  
29 escaped or absconded, the delinquent juvenile shall be subject to any further proceedings  
30 appropriate under the laws of that state.

31 (b) The state to which a delinquent juvenile is returned under this Article shall be  
32 responsible for the payment of transportation costs of the return.

33 **"§ 7B-2806. Voluntary return procedure.**

34 Any delinquent juvenile who has absconded while on probation or parole, or escaped  
35 from an institution or agency vested with legal custody or supervision in any state party  
36 to this Compact, and any juvenile who has run away from any state party to this  
37 Compact, who is taken into custody without a requisition in another state party to this  
38 Compact under the provisions of G.S. 7B-2804(a) or G.S. 7B-2805(a), may consent to the  
39 immediate return of the juvenile to the state from which the juvenile absconded, escaped,  
40 or ran away. Consent shall be given by the juvenile or delinquent juvenile and the  
41 juvenile's counsel or guardian ad litem, if any, by executing or subscribing a writing in  
42 the presence of a judge of the appropriate court, which states that the juvenile or  
43 delinquent juvenile and the juvenile's counsel or guardian ad litem, if any, consent to

1 return of the juvenile to the demanding state. Before consent is executed or subscribed,  
2 however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform  
3 the juvenile or delinquent juvenile of the juvenile's rights under this Compact. When the  
4 consent has been duly executed, it shall be forwarded to and filed with the Compact  
5 Administrator of the state in which the court is located, and the judge shall direct the  
6 officer having the juvenile or delinquent juvenile in custody to deliver the juvenile to the  
7 duly accredited officer or officers of the state demanding return of the juvenile and shall  
8 cause to be delivered to the officer or officers a copy of the consent. The court may,  
9 however, upon the request of the state to which the juvenile or delinquent juvenile is  
10 being returned, order the juvenile to return unaccompanied to the state and shall provide  
11 the juvenile with a copy of the court order; in that event a copy of the consent shall be  
12 forwarded to the Compact Administrator of the state to which the juvenile or delinquent  
13 juvenile is ordered to return.

14 **"§ 7B-2807. Cooperative supervision of probationers and parolees.**

15 (a) That the duly constituted judicial and administrative authorities of a state party  
16 to this Compact (herein called 'sending state') may permit any delinquent juvenile within  
17 such state, placed on probation or parole, to reside in any other state party to this  
18 Compact (herein called 'receiving state') while on probation or parole, and the receiving  
19 state shall accept the delinquent juvenile, if the parent, guardian, or person entitled to the  
20 legal custody of the delinquent juvenile is residing or undertakes to reside within the  
21 receiving state. Before granting permission, opportunity shall be given to the receiving  
22 state to make investigations as it deems necessary. The authorities of the sending state  
23 shall send to the authorities of the receiving state copies of pertinent court orders, social  
24 case studies, and all other available information which may be of value to and assist the  
25 receiving state in supervising a probationer or parolee under this Compact. A receiving  
26 state, in its discretion, may agree to accept supervision of a probationer or parolee in  
27 cases where the parent, guardian, or person entitled to the legal custody of the delinquent  
28 juvenile is not a resident of the receiving state, and if so accepted, the sending state may  
29 transfer the supervision accordingly.

30 (b) That each receiving state will assume the duties of visitation and of supervision  
31 over any delinquent juvenile and in the exercise of those duties will be governed by the  
32 same standards of visitation and supervision that prevail for its own delinquent juveniles  
33 released on probation or parole.

34 (c) That, after consultation between the appropriate authorities of the sending state  
35 and of the receiving state as to the desirability and necessity of returning the delinquent  
36 juvenile, the duly accredited officers of a sending state may enter a receiving state and  
37 there apprehend and retake any delinquent juvenile on probation or parole. For that  
38 purpose, no formalities will be required other than establishing the authority of the officer  
39 and the identity of the delinquent juvenile to be retaken and returned. The decision of the  
40 sending state to retake a delinquent juvenile on probation or parole shall be conclusive  
41 upon and not reviewable within the receiving state, but if, at the time the sending state  
42 seeks to retake a delinquent juvenile on probation or parole, there is pending against the  
43 juvenile within the receiving state any criminal charge or any proceeding to have the

1 juvenile adjudicated a delinquent juvenile for any act committed in the state or if the  
2 juvenile is suspected of having committed within the state a criminal offense or an act of  
3 juvenile delinquency, the juvenile shall not be returned without the consent of the  
4 receiving state until discharged from prosecution or other form of proceeding,  
5 imprisonment, detention, or supervision for the offense or juvenile delinquency. The duly  
6 accredited officers of the sending state shall be permitted to transport delinquent juveniles  
7 being so returned through any and all states party to this Compact without interference.

8 (d) The sending state shall be responsible under this Article for paying the costs of  
9 transporting any delinquent juvenile to the receiving state or of returning any delinquent  
10 juvenile to the sending state.

11 **"§ 7B-2808. Responsibility for costs.**

12 (a) The provisions of G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d) shall not be  
13 construed to alter or affect any internal relationship among the departments, agencies, and  
14 officers of and in the government of a party state, or between a party state and its  
15 subdivisions, as to the payment of costs or responsibilities therefor.

16 (b) Nothing in this Compact shall be construed to prevent any party state or  
17 subdivision thereof from asserting any right against any person, agency, or other entity in  
18 regard to costs for which such party state or subdivision thereof may be responsible  
19 pursuant to G.S. 7B-2804(b), 7B-2805(b), and 7B-2807(d).

20 **"§ 7B-2809. Detention practices.**

21 To every extent possible, it shall be the policy of states party to this Compact that no  
22 juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup,  
23 nor be detained or transported in association with criminal, vicious, or dissolute persons.

24 **"§ 7B-2810. Supplementary agreements.**

25 The duly constituted administrative authorities of a state party to this Compact may  
26 enter into supplementary agreements with any other state or states party hereto for the  
27 cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they find  
28 that the agreements will improve the facilities or programs available for care, treatment,  
29 and rehabilitation. Care, treatment, and rehabilitation may be provided in an institution  
30 located within any state entering into a supplementary agreement. Supplementary  
31 agreements shall:

- 32 (1) Provide the rates to be paid for the care, treatment, and custody of  
33 delinquent juveniles taking into consideration the character of facilities,  
34 services, and subsistence furnished;
- 35 (2) Provide that the delinquent juvenile shall be given a court hearing prior  
36 to the juvenile being sent to another state for care, treatment, and  
37 custody;
- 38 (3) Provide that the state receiving a delinquent juvenile in one of its  
39 institutions shall act solely as agent for the state sending the delinquent  
40 juvenile;
- 41 (4) Provide that the sending state shall at all times retain jurisdiction over  
42 delinquent juveniles sent to an institution in another state;

- 1           (5) Provide for reasonable inspection of the institutions by the sending  
2           state;
- 3           (6) Provide that the consent of the parent, guardian, person, or agency  
4           entitled to the legal custody of the delinquent juvenile shall be secured  
5           prior to the juvenile being sent to another state; and
- 6           (7) Make provisions for any other matters and details as shall be necessary  
7           to protect the rights and equities of delinquent juveniles and of the  
8           cooperating states.

9 **"§ 7B-2811. Acceptance of federal and other aid.**

10           Any state party to this Compact may accept any and all donations, gifts, and grants of  
11           money, equipment, and services from the federal or any local government, or any agency  
12           thereof and from any person, firm, or corporation, for any of the purposes and functions  
13           of this Compact, and may receive and utilize, the same subject to the terms, conditions,  
14           and regulations governing such donations, gifts, and grants.

15 **"§ 7B-2812. Compact administrators.**

16           The governor of each state party to this Compact shall designate an officer who,  
17           acting jointly with like officers of other party states, shall promulgate rules and  
18           regulations to carry out more efficiently the terms and provisions of this Compact.

19 **"§ 7B-2813. Execution of Compact.**

20           This Compact shall become operative immediately upon its execution by any state as  
21           between it and any other state or states so executing. When executed it shall have the full  
22           force and effect of law within the state, the form of execution to be in accordance with  
23           the laws of the executing state.

24 **"§ 7B-2814. Renunciation.**

25           This Compact shall continue in force and remain binding upon each executing state  
26           until renounced by it. Renunciation of this Compact shall be by the same authority which  
27           executed it, by sending six months' notice in writing of its intention to withdraw from the  
28           Compact to the other states party hereto. The duties and obligations of a renouncing state  
29           under G.S. 7B-2807 hereof shall continue as to parolees and probationers residing therein  
30           at the time of withdrawal until retaken or finally discharged. Supplementary agreements  
31           entered into under G.S. 7B-2810 hereof shall be subject to renunciation as provided by  
32           supplementary agreements and shall not be subject to the six months' renunciation notice  
33           of the present section.

34 **"§ 7B-2815. Severability.**

35           The provisions of this Compact shall be severable and if any phrase, clause, sentence,  
36           or provision of this Compact is declared to be contrary to the constitution of any  
37           participating state or of the United States or the applicability thereof to any government,  
38           agency, person, or circumstances is held invalid, the validity of the remainder of this  
39           Compact and the applicability thereof to any government, agency, person, or  
40           circumstances shall not be affected thereby. If this Compact shall be held contrary to the  
41           constitution of any state participating therein, the Compact shall remain in full force and  
42           effect as to the remaining states and in full force and effect as to the state affected as to  
43           all severable matters.



1 **"§ 7B-2816. Authority of Governor to designate Compact Administrator.**

2 Pursuant to said Compact, the Governor is hereby authorized and empowered to  
3 designate an officer who shall be the Compact Administrator and who, acting jointly with  
4 like officers of other party states, shall adopt rules and regulations to carry out more  
5 effectively the terms of the Compact. The Compact Administrator shall serve subject to  
6 the pleasure of the Governor. The Compact Administrator is hereby authorized,  
7 empowered, and directed to cooperate with all departments, agencies, and officers of and  
8 in the government of this State and its subdivisions in facilitating the proper  
9 administration of the Compact or of any supplementary agreement or agreements entered  
10 into by this State hereunder.

11 **"§ 7B-2817. Authority of Compact Administrator to enter into supplementary**  
12 **agreements.**

13 The Compact Administrator is hereby authorized and empowered to enter into  
14 supplementary agreements with appropriate officials of other states pursuant to the  
15 Compact. In the event that the supplementary agreement shall require or contemplate the  
16 use of any institution or facility of this State or require or contemplate the provision of  
17 any service by this State, the supplementary agreement shall have no force or effect until  
18 approved by the head of the department or agency under whose jurisdiction said  
19 institution or facility is operated or whose department or agency will be charged with the  
20 rendering of the service.

21 **"§ 7B-2818. Discharging financial obligations imposed by Compact or agreement.**

22 The Compact Administrator, subject to the approval of the Director of the Budget,  
23 may make or arrange for any payments necessary to discharge any financial obligations  
24 imposed upon this State by the Compact or by any supplementary agreement entered into  
25 thereunder.

26 **"§ 7B-2819. Enforcement of Compact.**

27 The courts, departments, agencies, and officers of this State and subdivisions shall  
28 enforce this Compact and shall do all things appropriate to the effectuation of its purposes  
29 and intent which may be within their respective jurisdictions.

30 **"§ 7B-2820. Additional procedure for returning runaways not precluded.**

31 In addition to any procedure provided in G.S. 7B-2804 and G.S. 7B-2806 of the  
32 Compact for the return of any runaway juvenile, the particular states, the juvenile or the  
33 juvenile's parents, the courts, or other legal custodian involved may agree upon and adopt  
34 any other plan or procedure legally authorized under the laws of this State and the other  
35 respective party states for the return of any runaway juvenile.

36 **"§ 7B-2821. Proceedings for return of runaways under G.S. 7B-2804 of Compact;**  
37 **'juvenile' construed.**

38 The judge of any court in North Carolina to which an application is made for the  
39 return of a runaway under the provisions of G.S. 7B-2804 of the Interstate Compact on  
40 Juveniles shall hold a hearing thereon to determine whether for the purposes of the  
41 Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it  
42 appears that the juvenile has in fact run away without consent, whether or not the juvenile  
43 is an emancipated minor and whether or not it is in the best interests of the juvenile to

1 compel the return of the juvenile to the state. The judge of any court in North Carolina,  
2 finding that a requisition for the return of a juvenile under the provisions of G.S. 7B-2804  
3 of the Compact is in order, shall upon request fix a reasonable time to be allowed for the  
4 purpose of testing the legality of the proceeding. The period of time for holding a juvenile  
5 in custody under the provisions of G.S. 7B-2804 of the Compact for the protection and  
6 welfare of the juvenile, subject to the order of a court of this State, to enable the juvenile's  
7 return to another state party to the Compact pursuant to a requisition for return from a  
8 court of that state, shall not exceed 30 days. In applying the provisions of G.S. 7B-2804  
9 of the Compact to secure the return of a runaway from North Carolina, the courts of this  
10 State shall construe the word 'juvenile' as used in this Article to mean any person who  
11 has not reached the person's eighteenth birthday.

12 **"§ 7B-2822. Interstate parole and probation hearing procedures for juveniles.**

13 Where supervision of a parolee or probationer is being administered pursuant to the  
14 Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in  
15 this State shall notify the Compact Administrator of the sending state whenever, in their  
16 view, consideration should be given to retaking or reincarceration for a parole or a  
17 probation violation. Prior to giving of notification, a hearing shall be held in accordance  
18 with this Article within a reasonable time, unless the hearing is waived by the parolee or  
19 probationer. The appropriate officer or officers of this State shall, as soon as practicable,  
20 following termination of any hearing, report to the sending state, furnish a copy of the  
21 hearing record, and make recommendations regarding the disposition to be made of the  
22 parolee or probationer by the sending state. Pending any proceeding pursuant to this  
23 section, the appropriate officers of this State may take custody of and detain the parolee  
24 or probationer involved for a period not to exceed 10 days prior to the hearing and, if it  
25 appears to the hearing officer or officers that retaking or reincarceration is likely to  
26 follow, for a reasonable period after the hearing or waiver as may be necessary to arrange  
27 for retaking or the reincarceration.

28 **"§ 7B-2823. Hearing officers.**

29 Any hearing pursuant to this Article may be before the Administrator of the Interstate  
30 Compact on Juveniles, a deputy of the Administrator, or any other person authorized  
31 pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or  
32 probation violations, except that no hearing officer shall be the person making the  
33 allegation of violation.

34 **"§ 7B-2824. Due process at parole or probation violation hearing.**

35 With respect to any hearing pursuant to this Article, the parolee or probationer:

- 36 (1) Shall have reasonable notice in writing of the nature and content of the  
37 allegations to be made, including notice that the purpose of the hearing  
38 is to determine whether there is probable cause to believe that the  
39 parolee or probationer has committed a violation that may lead to a  
40 revocation of parole or probation;  
41 (2) Shall be permitted to advise with any persons whose assistance the  
42 parolee or probationer reasonably desires, prior to the hearing;

1           (3) Shall have the right to confront and examine any persons who have  
2 made allegations against the parolee or probationer, unless the hearing  
3 officer determines that confrontation would present a substantial present  
4 or subsequent danger of harm to the person or persons; and

5           (4) May admit, deny, or explain the violation alleged and may present  
6 proof, including affidavits and other evidence, in support of the  
7 parolee's or probationer's contentions.

8           A record of the proceedings shall be made and preserved.

9 **"§ 7B-2825. Effect of parole or probation violation hearing outside State.**

10           In any case of alleged parole or probation violation by a person being supervised in  
11 another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or  
12 administrative officer or agency in another state is authorized to hold a hearing on the  
13 alleged violation. Upon receipt of the record of a parole or probation violation hearing  
14 held in another state pursuant to a statute substantially similar to this Article, such record  
15 shall have the same standing and effect as though the proceeding of which it is a record  
16 was had before the appropriate officer or officers in this State, and any recommendations  
17 contained in or accompanying the record shall be fully considered by the appropriate  
18 officer or officers of this State in making disposition of the matter.

19 **"§ 7B-2826. Amendment to Interstate Compact on Juveniles concerning interstate**  
20 **rendition of juveniles alleged to be delinquent.**

21           (a) This amendment shall provide additional remedies and shall be binding only as  
22 among and between those party states which specifically execute the same.

23           (b) All provisions and procedures of G.S. 7B-2805 and G.S. 7B-2806 of the  
24 Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with  
25 being a delinquent by reason of a violation of any criminal law. Any juvenile, charged  
26 with being a delinquent by reason of violating any criminal law, shall be returned to the  
27 requesting state upon a requisition to the state where the juvenile may be found. A  
28 petition in the case shall be filed in a court of competent jurisdiction in the requesting  
29 state where the violation of criminal law is alleged to have been committed. The petition  
30 may be filed regardless of whether the juvenile has left the state before or after the filing  
31 of the petition. The requisition described in G.S. 7B-2805 of the Compact shall be  
32 forwarded by the judge of the court in which the petition has been filed.

33 **"§ 7B-2827. Out-of-State Confinement Amendment.**

34           (a) The Out-of-State Confinement Amendment to the Interstate Compact on  
35 Juveniles is hereby enacted into law and entered into by this State with all other states  
36 legally joining therein in the form substantially as follows:

37           (1) Whenever the fully constituted judicial or administrative authorities in a  
38 sending state shall determine that confinement of a probationer or  
39 reconfinement of a parolee is necessary or desirable, the officials may  
40 direct that the confinement or reconfinement be in an appropriate  
41 institution for delinquent juveniles within the territory of the receiving  
42 state, the receiving state to act in that regard solely as agent for the  
43 sending state.

- 1           (2)   Escapes and absconders who would otherwise be returned pursuant to  
2           G.S. 7B-2805 of the Compact may be confined or reconfined in the  
3           receiving state pursuant to this amendment. In any case in which the  
4           information and allegations are required to be made and furnished in a  
5           requisition pursuant to G.S. 7B-2805, the sending state shall request  
6           confinement or reconfinement in the receiving state. Whenever  
7           applicable, detention orders, as provided in G.S. 7B-2805, may be  
8           employed pursuant to this paragraph preliminary to disposition of the  
9           escapee or absconder.
- 10          (3)   The confinement or reconfinement of a parolee, probationer, escapee, or  
11          absconder pursuant to this amendment shall require the concurrence of  
12          the appropriate judicial or administrative authorities of the receiving  
13          state.
- 14          (4)   As used in this amendment: (i) 'sending state' means a sending state as  
15          that term is used in G.S. 7B-2807 of the Compact or the state from  
16          which a delinquent juvenile has escaped or absconded within the  
17          meaning of G.S. 7B-2805 of the Compact; (ii) 'receiving state' means  
18          any state, other than the sending state, in which a parolee, probationer,  
19          escapee, or absconder may be found, provided that the state is a party to  
20          this amendment.
- 21          (5)   Every state which adopts this amendment shall designate at least one of  
22          its institutions for delinquent juveniles as a 'Compact Institution' and  
23          shall confine persons therein as provided in subdivision (1) of this  
24          subsection unless the sending and receiving state in question shall make  
25          specific contractual arrangements to the contrary. All states party to this  
26          amendment shall have access to 'Compact Institutions' at all reasonable  
27          hours for the purpose of inspecting the facilities thereof and for the  
28          purpose of visiting such of the State's delinquents as may be confined in  
29          the institution.
- 30          (6)   Persons confined in 'Compact Institutions' pursuant to the terms of this  
31          Compact shall at all times be subject to the jurisdiction of the sending  
32          state and may at any time be removed from the 'Compact Institution' for  
33          transfer to an appropriate institution within the sending state, for return  
34          to probation or parole, for discharge, or for any purpose permitted by  
35          the laws of the sending state.
- 36          (7)   All persons who may be confined in a 'Compact Institution' pursuant to  
37          the provisions of this amendment shall be treated in a reasonable and  
38          humane manner. The fact of confinement or reconfinement in a  
39          receiving state shall not deprive any person so confined or reconfined of  
40          any rights which the person would have had if confined or reconfined in  
41          an appropriate institution of the sending state. No agreement to submit  
42          to confinement or reconfinement pursuant to the terms of this  
43          amendment may be construed as a waiver of any rights which the

1 delinquent would have had if the person had been confined or  
2 reconfined in any appropriate institution of the sending state, except that  
3 the hearing or hearings, if any, to which a parolee, probationer, escapee,  
4 or absconder may be entitled (prior to confinement or reconfinement) by  
5 the laws of the sending state may be had before the appropriate judicial  
6 or administrative officers of the receiving state. In this event, said  
7 judicial and administrative officers shall act as agents of the sending  
8 state after consultation with appropriate officers of the sending state.

9 (8) Any receiving state incurring costs or other expenses under this  
10 amendment shall be reimbursed in the amount of the costs or other  
11 expenses by the sending state unless the states concerned shall  
12 specifically otherwise agree. Any two or more states party to this  
13 amendment may enter into supplementary agreements determining a  
14 different allocation of costs as among themselves.

15 (9) This amendment shall take initial effect when entered into by any two or  
16 more states party to the Compact and shall be effective as to those states  
17 which have specifically enacted this amendment. Rules and regulations  
18 necessary to effectuate the terms of this amendment may be adopted by  
19 the appropriate officers of those states which have enacted this  
20 amendment.

21 (b) In addition to any institution in which the authorities of this State may  
22 otherwise confine or order the confinement of a delinquent juvenile, the authorities may,  
23 pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on  
24 Juveniles, confine or order the confinement of a delinquent juvenile in a Compact  
25 Institution within another party state.

26 "ARTICLE 30.

27 "Juvenile Records and Social Reports of Delinquency and Undisciplined Cases.

28 "**§ 7B-3000. Juvenile court records.**

29 (a) The clerk shall maintain a complete record of all juvenile cases filed in the  
30 clerk's office to be known as the juvenile record. The record shall include the summons  
31 and petition, any secure or nonsecure custody order, any electronic or mechanical  
32 recording of hearings, and any written motions, orders, or papers filed in the proceeding.

33 (b) All juvenile records shall be withheld from public inspection and, except as  
34 provided in this subsection, may be examined only by order of the court. Except as  
35 provided in subsection (c) of this section, the following persons may examine the  
36 juvenile's record and obtain copies of written parts of the record without an order of the  
37 court:

- 38 (1) The juvenile and the juvenile's attorney;  
39 (2) The juvenile's parent, guardian, or custodian, or authorized  
40 representative;  
41 (3) The prosecutor; and  
42 (4) Court counselors.

1 Except as provided in subsection (c) of this section, law enforcement officers sworn in  
2 this State may examine, but not photocopy, the juvenile's record without an order of the  
3 court.

4 (c) The court may direct the clerk to 'seal' any portion of a juvenile's record. The  
5 clerk shall secure any sealed portion of a juvenile record in an envelope clearly marked  
6 'SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT', or with  
7 similar notice, and shall permit examination or copying of sealed portions of a juvenile's  
8 record only pursuant to a court order specifically authorizing inspection or copying.

9 (d) Any portion of a juvenile's record consisting of an electronic or mechanical  
10 recording of a hearing shall be transcribed only when notice of appeal has been timely  
11 given and shall be copied electronically or mechanically, only by order of the court.  
12 After the time for appeal has expired with no appeal having been filed, the court may  
13 enter a written order directing the clerk to destroy the recording of the hearing.

14 (e) The juvenile's record of an adjudication of delinquency for an offense that  
15 would be a felony if committed by an adult may be used by law enforcement, the  
16 magistrate, and the prosecutor for pretrial release and plea negotiating decisions.

17 (f) The juvenile's record of an adjudication of delinquency for an offense that  
18 would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a  
19 subsequent criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b),  
20 or to prove an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-  
21 1340.16(d), or G.S. 15A-2000(e). The record may be so used only by order of the court in  
22 the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera  
23 hearing to determine whether the record in question is admissible.

24 (g) Except as provided in subsection (d) of this section, a juvenile's record shall be  
25 destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Administrative  
26 Office of the Courts.

27 **"§ 7B-3001. Other records relating to juveniles.**

28 (a) The chief court counselor shall maintain a record of all cases of juveniles under  
29 supervision of court counselors, to be known as the court counselor's record. The court  
30 counselor's record shall include family background information; reports of social,  
31 medical, psychiatric, or psychological information concerning a juvenile or the juvenile's  
32 family; probation reports; interviews with the juvenile's family; or other information the  
33 court finds should be protected from public inspection in the best interests of the juvenile.

34 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all  
35 law enforcement records and files concerning a juvenile shall be kept separate from the  
36 records and files of adults and shall be withheld from public inspection. The following  
37 persons may examine and obtain copies of law enforcement records and files concerning  
38 a juvenile without an order of the court:

- 39 (1) The juvenile and the juvenile's attorney;
- 40 (2) The juvenile's parent, guardian, custodian, or authorized representative;
- 41 (3) The district attorney or prosecutor;
- 42 (4) Court counselors; and
- 43 (5) Law enforcement officers sworn in this State.

1 Otherwise, the records and files may be examined or copied only by order of the court.

2 (c) All records and files maintained by the Division of Youth Services pursuant to  
3 this Chapter shall be withheld from public inspection. The following persons may  
4 examine and obtain copies of the Division records and files concerning a juvenile without  
5 an order of the court:

6 (1) The juvenile and the juvenile's attorney;

7 (2) The juvenile's parent, guardian, custodian, or authorized representative;

8 (3) Professionals in the agency who are directly involved in the juvenile's  
9 case; and

10 (4) Court counselors.

11 Otherwise, the records and files may be examined or copied only by order of the court.  
12 The court may inspect and order the release of records maintained by the Division of  
13 Youth Services.

14 "ARTICLE 31.

15 "Disclosure Of Juvenile Information.

16 "**§ 7B-3100. Disclosure of information about juveniles.**

17 The chief district court judge in each district shall designate by standing order certain  
18 agencies in the district as 'agencies authorized to share information'. Agencies so  
19 designated shall share with one another, upon request, information that is in their  
20 possession that is relevant to any case in which a petition is filed alleging that a juvenile  
21 is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so  
22 until the juvenile is no longer subject to the jurisdiction of juvenile court. Agencies that  
23 may be designated as 'agencies authorized to share information' include local mental  
24 health facilities, local health departments, local departments of social services, local law  
25 enforcement agencies, local school administrative units, the district's district attorney's  
26 office, the Division of Juvenile Services and the Office of Guardian ad Litem Services of  
27 the Administrative Office of the Courts. Any information shared among agencies  
28 pursuant to this section shall remain confidential, shall be withheld from public  
29 inspection, and shall be used only for the protection of the juvenile. Nothing in this  
30 section or any other provision of law shall preclude any other necessary sharing of  
31 information among agencies. Nothing herein shall be deemed to require the disclosure or  
32 release of any information in the possession of a district attorney.

33 "**§ 7B-3101. Notification of schools when juveniles are alleged or found to be**  
34 **delinquent.**

35 (a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver  
36 verbal and written notification of the following actions to the principal of the school that  
37 the juvenile attends:

38 (1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an  
39 offense that would be a felony if committed by an adult;

40 (2) The court transfers jurisdiction over a juvenile to superior court under  
41 G.S. 7B-2200;

- 1           (3)   The court dismisses under G.S. 7B-2411 the petition that alleges  
2           delinquency for an offense that would be a felony if committed by an  
3           adult;
- 4           (4)   The court issues a dispositional order under Article 25 of Chapter 7B of  
5           the General Statutes including, but not limited to, an order of probation  
6           that requires school attendance, concerning a juvenile alleged or found  
7           delinquent for an offense that would be a felony if committed by an  
8           adult; or
- 9           (5)   The court modifies or vacates any order or disposition under G.S. 7B-  
10           2600 concerning a juvenile alleged or found delinquent for an offense  
11           that would be a felony if committed by an adult.

12           Notification of the school principal in person or by telephone shall be made before the  
13           beginning of the next school day. Delivery shall be made as soon as practicable but at  
14           least within five days of the action. Delivery shall be made in person or by certified mail.  
15           Notification that a petition has been filed shall describe the nature of the offense.  
16           Notification of a dispositional order, a modified or vacated order, or a transfer to superior  
17           court shall describe the court's action and any applicable disposition requirements. As  
18           used in this subsection, the term 'offense' shall not include any offense under Chapter 20  
19           of the General Statutes.

20           (b)   If the principal of the school the juvenile attends returns any notification as  
21           required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is  
22           transferring to another school, the juvenile court counselor shall deliver the notification to  
23           the principal of the school to which the juvenile is transferring. Delivery shall be made as  
24           soon as practicable and shall be made in person or by certified mail.

25           (c)   Principals shall handle any notification delivered under this section in  
26           accordance with G.S. 115C-404.

27           (d)   For the purpose of this section, 'school' means any public or private school in  
28           the State that is authorized under Chapter 115C of the General Statutes.

29                                   "ARTICLE 32.

30                                   "Expunction of Juvenile Records.

31           **"§ 7B-3200. Expunction of records of juveniles alleged or adjudicated delinquent**  
32           **and undisciplined.**

33           (a)   Any person who has attained the age of 18 years may file a petition in the court  
34           where the person was adjudicated undisciplined for expunction of all records of that  
35           adjudication.

36           (b)   Any person who has attained the age of 16 years may file a petition in the court  
37           where the person was adjudicated delinquent for expunction of all records of that  
38           adjudication provided:

- 39           (1)   The offense for which the person was adjudicated would have been a  
40           crime other than a Class A, B1, B2, C, D, or E felony if committed by  
41           an adult.

- 42           (2)   The person has not subsequently been adjudicated delinquent or  
43           convicted as an adult of any felony or misdemeanor other than a traffic



1 violation under the laws of the United States or the laws of this State or  
2 any other state.

3 Records relating to an adjudication for an offense that would be a Class A, B1, B2, C,  
4 D, or E felony if committed by an adult shall not be expunged.

5 (c) The petition shall contain, but not be limited to, the following:

6 (1) An affidavit by the petitioner that the petitioner has been of good  
7 behavior since the adjudication and, in the case of a petition based on a  
8 delinquency adjudication, that the petitioner has not subsequently been  
9 adjudicated delinquent or convicted as an adult of any felony or  
10 misdemeanor other than a traffic violation under the laws of the United  
11 States, or the laws of this State or any other state;

12 (2) Verified affidavits of two persons, who are not related to the petitioner  
13 or to each other by blood or marriage, that they know the character and  
14 reputation of the petitioner in the community in which the petitioner  
15 lives and that the petitioner's character and reputation are good;

16 (3) A statement that the petition is a motion in the cause in the case wherein  
17 the petitioner was adjudicated delinquent or undisciplined.

18 The petition shall be served upon the district attorney in the district wherein  
19 adjudication occurred. The district attorney shall have 10 days thereafter in which to file  
20 any objection thereto and shall be duly notified as to the date of the hearing on the  
21 petition.

22 (d) If the court, after hearing, finds that the petitioner satisfies the conditions set  
23 out in subsections (a) or (b) of this section, the petitioner shall order and direct the clerk  
24 and all law enforcement agencies to expunge their records of the adjudication including  
25 all references to arrests, complaints, referrals, petitions, and orders.

26 (e) The clerk shall forward a certified copy of the order to the sheriff, chief of  
27 police, or other law enforcement agency.

28 (f) Records of a juvenile adjudicated delinquent or undisciplined being maintained  
29 by the chief court counselor, an intake counselor or a court counselor shall be retained or  
30 disposed of as provided by the Juvenile Services Division.

31 (g) Records of a juvenile adjudicated delinquent or undisciplined being maintained  
32 by personnel at a residential facility operated by the Division of Youth Services, shall be  
33 retained or disposed of as provided by the Department.

34 (h) Any person who was alleged to be delinquent as a juvenile and has attained the  
35 age of 16 years, or was alleged to be undisciplined as a juvenile and has attained the age  
36 of 18 years, may file a petition in the court in which the person was alleged to be  
37 delinquent or undisciplined, for expunction of all juvenile records of the juvenile having  
38 been alleged to be delinquent or undisciplined if the court dismissed the juvenile petition  
39 without an adjudication that the juvenile was delinquent or undisciplined. The petition  
40 shall be served on the chief court counselor in the district where the juvenile petition was  
41 filed. The chief court counselor shall have 10 days thereafter in which to file a written  
42 objection in the court. If no objection is filed, the court may grant the petition without a  
43 hearing. If an objection is filed or the court so directs, a hearing shall be scheduled and

1 the chief court counselor shall be notified as to the date of the hearing. If the court finds  
2 at the hearing that the petitioner satisfies the conditions specified herein, the court shall  
3 order the clerk and the appropriate law enforcement agencies to expunge their records of  
4 the allegations of delinquent or undisciplined acts including all references to arrests,  
5 complaints, referrals, juvenile petitions, and orders. The clerk shall forward a certified  
6 copy of the order of expunction to the sheriff, chief of police, or other appropriate law  
7 enforcement agency, and to the chief court counselor, and these specified officials shall  
8 immediately destroy all records relating to the allegations that the juvenile was delinquent  
9 or undisciplined.

10 **"§ 7B-3201. Effect of expunction.**

11 (a) Whenever a juvenile's record is expunged, with respect to the matter in which  
12 the record was expunged, the juvenile who is the subject of the record and the juvenile's  
13 parent may inform any person or organization including employers, banks, credit  
14 companies, insurance companies, and schools that the juvenile was not arrested, did not  
15 appear before the court, and was not adjudicated delinquent or undisciplined.

16 (b) Notwithstanding subsection (a) of this section, in any delinquency case if the  
17 juvenile is the defendant and chooses to testify or if the juvenile is not the defendant and  
18 is called as a witness, the juvenile may be ordered to testify with respect to whether the  
19 juvenile was adjudicated delinquent.

20 **"§ 7B-3202. Notice of expunction.**

21 Upon expunction of a juvenile's record, the clerk shall send a written notice to the  
22 juvenile at the juvenile's last known address informing the juvenile that the record has  
23 been expunged and with respect to the matter involved, the juvenile may inform any  
24 person that the juvenile has no record. The notice shall inform the juvenile further that if  
25 the matter involved is a delinquency record, the juvenile may inform any person that the  
26 juvenile was not arrested or adjudicated delinquent except that upon testifying in a  
27 delinquency proceeding, the juvenile may be required by a court to disclose that the  
28 juvenile was adjudicated delinquent.

29 **"ARTICLE 33.**

30 **"Computation of Recidivism Rates.**

31 **"§ 7B-3300. Juvenile recidivism rates.**

32 (a) On an annual basis, the Administrative Office of the Courts shall compute the  
33 recidivism rate of juveniles who are adjudicated delinquent for offenses that would be  
34 Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are  
35 adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative  
36 Commission on Governmental Operations by December 31 each year.

37 (b) The chief court counselor of each judicial district shall forward to the  
38 Administrative Office of the Courts relevant information, as determined by the  
39 Administrative Office of the Courts, regarding every juvenile who is adjudicated  
40 delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed  
41 by an adult for the purpose of computing the statistics required by this section.

42 Articles 34 and 35 reserved for future codification purposes.

43 **"ARTICLE 36.**

1 "Judicial Consent for Emergency Surgical or Medical Treatment.

2 **"§ 7B-3600. Judicial authorization of emergency treatment; procedure.**

3 A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the  
4 General Statutes, whose physician is barred from rendering necessary treatment by reason  
5 of parental refusal to consent to treatment, may receive treatment with court authorization  
6 under the following procedure:

7 (1) The physician shall sign a written statement setting out:

8 a. The treatment to be rendered and the emergency need for  
9 treatment;

10 b. The refusal of the parent, guardian, or person standing in loco  
11 parentis to consent to the treatment; and

12 c. The impossibility of contacting a second physician for a  
13 concurring opinion on the need for treatment in time to prevent  
14 immediate harm to the juvenile.

15 (2) Upon examining the physician's written statement prescribed in  
16 subdivision (1) of this section and finding:

17 a. That the statement is in accordance with this Article, and

18 b. That the proposed treatment is necessary to prevent immediate  
19 harm to the juvenile.

20 The court may issue a written authorization for the proposed treatment  
21 to be rendered.

22 (3) In acute emergencies in which time may not permit implementation of  
23 the written procedure set out in subdivisions (1) and (2) of this section,  
24 the court may authorize treatment in person or by telephone upon  
25 receiving the oral statement of a physician satisfying the requirements  
26 of subdivision (1) of this section and upon finding that the proposed  
27 treatment is necessary to prevent immediate harm to the juvenile.

28 (4) The court's authorization for treatment overriding parental refusal to  
29 consent should not be given without attempting to offer the parent an  
30 opportunity to state the reasons for refusal; however, failure of the court  
31 to hear the parent's objections shall not invalidate judicial authorization  
32 under this Article.

33 (5) The court's authorization for treatment under subdivisions (1) and (2) of  
34 this section shall be issued in duplicate. One copy shall be given to the  
35 treating physician and the other copy shall be attached to the physician's  
36 written statement and filed as a juvenile proceeding in the office of the  
37 clerk of court.

38 (6) The court's authorization for treatment under subdivision (3) of this  
39 section shall be reduced to writing as soon as possible, supported by the  
40 physician's written statement as prescribed in subdivision (1) of this  
41 section and shall be filed as prescribed in subdivision (5) of this section.

42 The court's authorization for treatment under this Article shall have the same effect as  
43 parental consent for treatment.

1 Following the court's authorization for treatment and after giving notice to the  
2 juvenile's parent, the court shall conduct a hearing in order to provide for payment for the  
3 treatment rendered. The court may order the parent or other responsible parties to pay the  
4 cost of treatment. If the court finds the parent is unable to pay the cost of treatment, the  
5 cost shall be a charge upon the county when so ordered.

6 This Article shall operate as a remedy in addition to the provisions in G.S. 7B-903,  
7 7B-2501, and 7B-2504.

8 "ARTICLE 37.

9 "Placing or Adoption of Juvenile Delinquents or Dependents.

10 "**§ 7B-3700. Consent required for bringing child into State for placement or**  
11 **adoption.**

12 (a) No person, agency, association, institution, or corporation shall bring or send  
13 into the State any child for the purpose of giving custody of the child to some person in  
14 the State or procuring adoption by some person in the State without first obtaining the  
15 written consent of the Department of Health and Human Services.

16 (b) The person with whom a child is placed for either of the purposes set out in  
17 subsection (a) of this section shall be responsible for the child's proper care and training.  
18 The Department of Health and Human Services or its agents shall have the same right of  
19 visitation and supervision of the child and the home in which it is placed as in the case of  
20 a child placed by the Department or its agents as long as the child shall remain within the  
21 State and until the child shall have reached the age of 18 years or shall have been legally  
22 adopted.

23 "**§ 7B-3701. Bond required.**

24 The Social Services Commission may, in its discretion, require of a person, agency,  
25 association, institution, or corporation which brings or sends a child into the State with  
26 the written consent of the Department of Health and Human Services, as provided by  
27 G.S. 7B-3700, a continuing bond in a penal sum not in excess of one thousand dollars  
28 (\$1,000) with such conditions as may be prescribed and such sureties as may be approved  
29 by the Department of Health and Human Services. Said bond shall be made in favor of  
30 and filed with the Department of Health and Human Services with the premium prepaid  
31 by the said person, agency, association, institution or corporation desiring to place such  
32 child in the State.

33 "**§ 7B-3702. Consent required for removing child from State.**

34 No child shall be taken or sent out of the State for the purpose of placing the child in a  
35 foster home or in a child-caring institution without first obtaining the written consent of  
36 the Department of Health and Human Services. The foster home or child-caring  
37 institution in which the child is placed shall report to the Department of Health and  
38 Human Services at such times as the Department of Health and Human Services may  
39 direct as to the location and well-being of such child until the child shall have reached the  
40 age of 18 years or shall have been legally adopted.

41 "**§ 7B-3703. Violation of Article a misdemeanor.**

42 Every person acting for himself or for an agency who violates any of the provisions of  
43 this Article or who shall intentionally make any false statements to the Social Services

1 Commission or the Secretary or an employee thereof acting for the Department of Health  
2 and Human Services in an official capacity in the placing or adoption of juvenile  
3 delinquents or dependents shall, upon conviction thereof, be guilty of a Class 2  
4 misdemeanor.

5 **"§ 7B-3704. Definitions.**

6 The term 'Department' wherever used in this Article shall be construed to mean the  
7 Department of Health and Human Services.

8 **"§ 7B-3705. Application of Article.**

9 None of the provisions of this Article shall apply when a child is brought into or sent  
10 into, or taken out of, or sent out of the State, by the guardian of the person of such child,  
11 or by a parent, stepparent, grandparent, uncle or aunt of such child, or by a brother, sister,  
12 half brother, or half sister of such child, if such brother, sister, half brother, or half sister  
13 is 18 years of age or older.

14 **"SUBCHAPTER III. EMANCIPATION.**

15 **"ARTICLE 38.**

16 **"Emancipation.**

17 **"§ 7B-3800. Definition; who may petition.**

18 For purposes of this Article, the term 'child', defined pursuant to Subchapter I, G.S.  
19 7B-101, includes the meaning of the term 'juvenile', defined pursuant to Subchapter II,  
20 G.S. 7B-1501. The definitions of Subchapter I, G.S. 7B-101, and of Subchapter II, G.S.  
21 7B-1501 apply to this Article.

22 Any child who is 16 years of age or older and who has resided in the same county in  
23 North Carolina or on federal territory within the boundaries of North Carolina for six  
24 months next preceding the filing of the petition may petition the court in that county for a  
25 judicial decree of emancipation.

26 **"§ 7B-3801. Petition.**

27 The petition shall be signed and verified by the petitioner and shall contain the  
28 following information:

- 29 (1) The full name of the petitioner, the petitioner's birth date, and state and  
30 county of birth;
- 31 (2) A certified copy of the petitioner's birth certificate;
- 32 (3) The name and last known address of the parent, guardian, or custodian;
- 33 (4) The petitioner's address and length of residence at that address;
- 34 (5) The petitioner's reasons for requesting emancipation; and
- 35 (6) The petitioner's plan for meeting the petitioner's own needs and living  
36 expenses, which plan may include a statement of employment and  
37 wages earned that is verified by the petitioner's employer.

38 **"§ 7B-3802. Summons.**

39 A copy of the filed petition along with a summons shall be served upon the  
40 petitioner's parent, guardian, or custodian who shall be named as respondents. The  
41 summons shall include the time and place of the hearing and shall notify the respondents  
42 to file written answer within 30 days after service of the summons and petition. In the

1 event that personal service cannot be obtained, service shall be in accordance with G.S.  
2 1A-1, Rule 4(j).

3 **"§ 7B-3803. Hearing.**

4 The judge, sitting without a jury, shall permit all parties to present evidence and to  
5 cross-examine witnesses. The petitioner shall have the burden of showing by a  
6 preponderance of the evidence that emancipation is in the petitioner's best interest. Upon  
7 finding that reasonable cause exists, the judge may order the child to be examined by a  
8 psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate  
9 the child's mental or physical condition. The judge may continue the hearing and order  
10 investigation by a court counselor or by the county Department of Social Services to  
11 substantiate allegations of the petitioner or respondents.

12 No husband-wife or physician-patient privilege shall be grounds for excluding any  
13 evidence in the hearing.

14 **"§ 7B-3804. Considerations for emancipation.**

15 In determining the best interest of the petitioner and the need for emancipation, the  
16 judge shall review the following considerations:

- 17 (1) The parental need for the earnings of the petitioner;
- 18 (2) The petitioner's ability to function as an adult;
- 19 (3) The petitioner's need to contract as an adult or to marry;
- 20 (4) The employment status of the petitioner and the stability of the  
21 petitioner's living arrangements;
- 22 (5) The extent of family discord which may threaten reconciliation of the  
23 petitioner with the petitioner's family;
- 24 (6) The petitioner's rejection of parental supervision or support; and
- 25 (7) The quality of parental supervision or support.

26 **"§ 7B-3805. Final decree of emancipation.**

27 After reviewing the considerations for emancipation, the judge may enter a decree of  
28 emancipation if the judge determines:

- 29 (1) That all parties are properly before the court or were duly served and  
30 failed to appear and that time for filing an answer has expired; and
- 31 (2) That the petitioner has shown a proper and lawful plan for adequately  
32 providing for the petitioner's own needs and living expenses; and
- 33 (3) That the petitioner is knowingly seeking emancipation and fully  
34 understands the ramifications of this act; and
- 35 (4) That emancipation is in the best interest of the petitioner.

36 The decree shall set out the court's findings.

37 If the judge determines that the criteria in subdivisions (1) through (4) are not met, the  
38 judge shall order the proceeding dismissed.

39 **"§ 7B-3806. Costs of court.**

40 The judge may tax the costs of the proceeding to any party or may, for good cause,  
41 order the costs remitted.

42 The clerk of superior court may collect costs for furnishing to the petitioner a  
43 certificate of emancipation which shall recite the name of the petitioner and the fact of

1 the petitioner's emancipation by court decree and shall have the seal of the clerk of  
2 superior court affixed thereon.

3 **"§ 7B-3807. Legal effect of final decree.**

4 As of entry of the final decree of emancipation:

5 (1) The petitioner has the same right to make contracts and conveyances, to  
6 sue and to be sued, and to transact business as if the petitioner were an  
7 adult.

8 (2) The parent or guardian is relieved of all legal duties and obligations  
9 owed to the petitioner and is divested of all rights with respect to the  
10 petitioner.

11 (3) The decree is irrevocable.

12 Notwithstanding any other provision of this section, a decree of emancipation shall not  
13 alter the application of G.S. 14-322.2, 14- 326.1, or the petitioner's right to inherit  
14 property by intestate succession.

15 **"§ 7B-3808. Appeals.**

16 Any petitioner, parent, or guardian who is a party to a proceeding under this Article  
17 may appeal from any order of disposition to the Court of Appeals provided that notice of  
18 appeal is given in open court at the time of the hearing or in writing within 10 days after  
19 the hearing. Pending disposition of an appeal, the judge may enter a temporary order  
20 affecting the custody or placement of the petitioner as the judge finds to be in the best  
21 interest of the petitioner or the State.

22 **"§ 7B-3809. Application of common law.**

23 A married child is emancipated by this Article. All other common law provisions for  
24 emancipation are superseded by this Article."

25  
26 **PART IV. CONFORMING CHANGES.**

27  
28 Section 6. (a) G.S. 8-53.1 reads as rewritten:

29 **"§ 8-53.1. Physician-patient privilege waived in child abuse.**

30 Notwithstanding the provisions of G.S. 8-53, the physician- patient privilege shall not  
31 be ground for excluding evidence regarding the abuse or neglect of a child under the age  
32 of 16 years or regarding an illness of or injuries to such child or the cause thereof in any  
33 judicial proceeding related to a report pursuant to the North Carolina Juvenile Code,  
34 ~~Subchapter XI of Chapter 7A-7B~~ of the General Statutes of North Carolina."

35 (b) G.S. 8-53.3 reads as rewritten:

36 **"§ 8-53.3. Communications between psychologist and client or patient.**

37 No person, duly authorized as a licensed psychologist or licensed psychological  
38 associate, nor any of his or her employees or associates, shall be required to disclose any  
39 information which he or she may have acquired in the practice of psychology and which  
40 information was necessary to enable him or her to practice psychology. Any resident or  
41 presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6,  
42 compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is  
43 necessary to a proper administration of justice. If the case is in district court the judge

1 shall be a district court judge, and if the case is in superior court the judge shall be a  
2 superior court judge.

3 Notwithstanding the provisions of this section, the psychologist-client or patient  
4 privilege shall not be grounds for failure to report suspected child abuse or neglect to the  
5 appropriate county department of social services, or for failure to report a disabled adult  
6 suspected to be in need of protective services to the appropriate county department of  
7 social services. Notwithstanding the provisions of this section, the psychologist-client or  
8 patient privilege shall not be grounds for excluding evidence regarding the abuse or  
9 neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for  
10 excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an  
11 illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding  
12 related to a report pursuant to the Child Abuse Reporting Law, ~~Article 44 of Chapter 7A,~~  
13 Article 3 of Chapter 7B of the General Statutes, or to the Protection of the Abused,  
14 Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General  
15 Statutes."

16 (c) G.S. 8-57.1 reads as rewritten:

17 **"§ 8-57.1. Husband-wife privilege waived in child abuse.**

18 Notwithstanding the provisions of G.S. 8-56 and G.S. 8-57, the husband-wife  
19 privilege shall not be ground for excluding evidence regarding the abuse or neglect of a  
20 child under the age of 16 years or regarding an illness of or injuries to such child or the  
21 cause thereof in any judicial proceeding related to a report pursuant to the Child Abuse  
22 Reporting Law, ~~Article 8 of Chapter 110~~ Article 3 of Chapter 7B of the General Statutes  
23 of North Carolina."

24 (d) G.S. 14-208.6B reads as rewritten:

25 **"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted**  
26 **in superior court.**

27 A juvenile transferred to superior court pursuant to ~~G.S. 7A-608~~ G.S. 7B-2200 who is  
28 convicted of a sexually violent offense or an offense against a minor as defined in G.S.  
29 14-208.6 shall register in accordance with this Article just as an adult convicted of the  
30 same offense must register."

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

32 **"§ 14-316.1. Contributing to delinquency and neglect by parents and others.**

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

38 It is not necessary for the district court exercising juvenile jurisdiction to make an  
39 adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order  
40 to prosecute a parent or any person, including an employee of the Department of Health  
41 and Human Services under this section. An adjudication that a juvenile is delinquent,  
42 undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a  
43 parent or any other person including an employee of the Division of Youth Services who



1 contributes to the delinquent, undisciplined, abused, or neglected condition of any  
2 juvenile."

3 (f) G.S. 15A-502(c) reads as rewritten:

4 "(c) This section does not authorize the taking of photographs or fingerprints of a  
5 juvenile alleged to be delinquent except under ~~G.S. 7A-596 through 7A-601 and 7A-603.~~  
6 Article 21 of Chapter 7B of the General Statutes."

7 (g) G.S. 35A-1371 reads as rewritten:

8 **"§ 35A-1371. Jurisdiction; limits.**

9 Notwithstanding the provisions of Subchapter II of this Chapter, the clerk of superior  
10 court shall have original jurisdiction for the appointment of a standby guardian for a  
11 minor child under this Article. Provided that the clerk shall have no jurisdiction, no  
12 standby guardian may be appointed under this Article, and no designation may become  
13 effective under this Article when a district court has assumed jurisdiction over the minor  
14 child in an action under Chapter 50 of the General Statutes or in an abuse, neglect, or  
15 dependency proceeding under ~~Subchapter XI of Chapter 7A~~ Subchapter I of Chapter 7B  
16 of the General Statutes, or when a court in another state has assumed such jurisdiction  
17 under a comparable statute."

18 (h) G.S. 48-2-102(b) reads as rewritten:

19 "(b) If an adoptee is also the subject of a pending proceeding under ~~Subchapter XI~~  
20 ~~of Chapter 7A~~ Chapter 7B of the General Statutes, then the district court having  
21 jurisdiction under ~~Chapter 7A~~ Chapter 7B shall retain jurisdiction until the final order of adoption  
22 is entered. The district court may waive jurisdiction for good cause."

23 (i) G.S. 50-13.1(f) reads as rewritten:

24 "(f) Neither the mediator nor any party or other person involved in mediation  
25 sessions under this section shall be competent to testify to communications made during  
26 or in furtherance of such mediation sessions; provided, there is no privilege as to  
27 communications made in furtherance of a crime or fraud. Nothing in this subsection shall  
28 be construed as permitting an individual to obtain immunity from prosecution for  
29 criminal conduct or as excusing an individual from the reporting requirements of ~~G.S.~~  
30 ~~7A-543~~ Article 3 of Chapter 7B of the General Statutes or G.S. 108A-102."

31 (j) G.S. 50A-25 reads as rewritten:

32 **"§ 50A-25. Emergency orders.**

33 Nothing in this Chapter shall be interpreted to limit the authority of the court to issue  
34 an interlocutory order under the provisions of G.S. 50-13.5(d)(2); or a secure or  
35 nonsecure custody order under the provisions of ~~G.S. 7A-573~~ G.S. 7B-502."

36 (k) G.S. 50B-6 reads as rewritten:

37 **"§ 50B-6. Construction of Chapter.**

38 This Chapter shall not be construed as granting a status to any person for any purpose  
39 other than those expressly stated herein. This Chapter shall not be construed as relieving  
40 any person or institution of the duty to report to the department of social services, as  
41 required by ~~G.S. 7A-543~~, G.S. 7B-301, if the person or institution has cause to suspect  
42 that a juvenile is abused or neglected."

43 (l) G.S. 51-2(a) reads as rewritten:

1       (a) All unmarried persons of 18 years, or older, may lawfully marry, except as  
2 hereinafter forbidden. In addition, persons over 16 years of age and under 18 years of age  
3 may marry, and the register of deeds may issue a license for such marriage, only after  
4 there shall have been filed with the register of deeds a written consent to such marriage,  
5 said consent having been signed by the appropriate person as follows:

- 6           (1) By the father if the male or female child applying to marry resides with  
7 his or her father, but not with his or her mother;  
8           (2) By the mother if the male or female child applying to marry resides with  
9 his or her mother, but not with his or her father;  
10          (3) By either the mother or father, without preference, if the male or female  
11 child applying to marry resides with his or her mother and father;  
12          (4) By a person, agency, or institution having legal custody, standing in  
13 loco parentis, or serving as guardian of such male or female child  
14 applying to marry.

15 Such written consent shall not be required for an emancipated minor if a certificate of  
16 emancipation issued pursuant to Article ~~56 of Chapter 7A-13~~ of Chapter 7B of the  
17 General Statutes or a certified copy of a final decree or certificate of emancipation from  
18 this or any other jurisdiction is filed with the register of deeds."

19          (m) G.S. 90-21.6(1) reads as rewritten:

20          "(1) 'Unemancipated minor' or 'minor' means any person under the age of 18  
21 who has not been married or has not been emancipated pursuant to  
22 Article ~~56 of Chapter 7A-13~~ of Chapter 7B of the General Statutes."

23          (n) G.S. 90-21.8(f) reads as rewritten:

24          "(f) The court shall make written findings of fact and conclusions of law supporting  
25 its decision and shall order that a confidential record of the evidence be maintained. If the  
26 court finds that the minor has been a victim of incest, whether felonious or misdemeanor,  
27 it shall advise the Director of the Department of Social Services of its findings for further  
28 action pursuant to Article ~~44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes."

29          (o) G.S. 108A-14(a)(11) reads as rewritten:

30          "(11) To investigate reports of child abuse and neglect and to take appropriate  
31 action to protect such children pursuant to the Child Abuse Reporting  
32 Law, Article ~~44 of Chapter 7A;~~ Article 3 of Chapter 7B of the General  
33 Statutes;"

34          (p) G.S. 110-102 reads as rewritten:

35 **"§ 110-102. Information for parents.**

36       The Secretary shall provide to each operator of a child care facility a summary of this  
37 Article for the parents, guardian, or full-time custodian of each child receiving child care  
38 in the facility to be distributed by the operator. The summary shall include the name and  
39 address of the Secretary and the address of the Commission. The summary shall also  
40 include a statement regarding the mandatory duty prescribed in ~~G.S. 7A-543~~ G.S. 7B-301  
41 of any person suspecting child abuse or neglect has taken place in child care, or  
42 elsewhere, to report to the county Department of Social Services. The statement shall  
43 include the definitions of child abuse and neglect described in the Juvenile Code in ~~G.S.~~

1 ~~7A-517-7B-101~~ and of child abuse described in the Criminal Code in G.S. 14-318.2 and  
2 G.S. 14-318.4. The statement shall stress that this reporting law does not require that the  
3 person reporting reveal the person's identity."

4 (p) G.S. 110-105.2(a) reads as rewritten:

5 "(a) For purposes of this Article, child abuse and neglect, as defined in ~~G.S. 7A-517~~  
6 G.S. 7B-101 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in child care facilities,  
7 are violations of the licensure standards and of the licensure law."

8 (q) G.S. 110-147 reads as rewritten:

9 **"§ 110-147. Purpose.**

10 It is the expressed intent of this Article to make the prevention of child abuse and  
11 neglect as defined in ~~G.S. 7A-517~~, G.S. 7B-101, a priority of this State and to establish  
12 the Children's Trust Fund as a means to that end."

13 (r) G.S. 114-15.3 reads as rewritten:

14 **"§ 114-15.3. Investigations of child sexual abuse in child care.**

15 The Director of the Bureau may form a task force to investigate and gather evidence  
16 following a notification by the director of a county department of social services,  
17 pursuant to ~~G.S. 7A-543~~, G.S. 7B-301, that child sexual abuse may have occurred in a  
18 child care facility."

19 (s) G.S. 115C-378 reads as rewritten:

20 **"§ 115C-378. Children required to attend.**

21 Every parent, guardian or other person in this State having charge or control of a child  
22 between the ages of seven and 16 years shall cause such child to attend school  
23 continuously for a period equal to the time which the public school to which the child is  
24 assigned shall be in session. Every parent, guardian, or other person in this State having  
25 charge or control of a child under age seven who is enrolled in a public school in grades  
26 kindergarten through two shall also cause such child to attend school continuously for a  
27 period equal to the time which the public school to which the child is assigned shall be in  
28 session unless the child has withdrawn from school. No person shall encourage, entice or  
29 counsel any such child to be unlawfully absent from school. The parent, guardian, or  
30 custodian of a child shall notify the school of the reason for each known absence of the  
31 child, in accordance with local school policy.

32 The principal, superintendent, or teacher who is in charge of such school shall have  
33 the right to excuse a child temporarily from attendance on account of sickness or other  
34 unavoidable cause which does not constitute unlawful absence as defined by the State  
35 Board of Education. The term 'school' as used herein is defined to embrace all public  
36 schools and such nonpublic schools as have teachers and curricula that are approved by  
37 the State Board of Education.

38 All nonpublic schools receiving and instructing children of a compulsory school age  
39 shall be required to keep such records of attendance and render such reports of the  
40 attendance of such children and maintain such minimum curriculum standards as are  
41 required of public schools; and attendance upon such schools, if the school refuses or  
42 neglects to keep such records or to render such reports, shall not be accepted in lieu of  
43 attendance upon the public school of the district to which the child shall be assigned:

1 Provided, that instruction in a nonpublic school shall not be regarded as meeting the  
2 requirements of the law unless the courses of instruction run concurrently with the term  
3 of the public school in the district and extend for at least as long a term.

4 The principal or his designee shall notify the parent, guardian, or custodian of his  
5 child's excessive absences after the child has accumulated three unexcused absences in a  
6 school year. After not more than six unexcused absences, the principal shall notify the  
7 parent, guardian, or custodian by mail that he may be in violation of the Compulsory  
8 Attendance Law and may be prosecuted if the absences cannot be justified under the  
9 established attendance policies of the State and local boards of education. Once the  
10 parents are notified, the school attendance counselor shall work with the child and his  
11 family to analyze the causes of the absences and determine steps, including adjustment of  
12 the school program or obtaining supplemental services, to eliminate the problem. The  
13 attendance counselor may request that a law-enforcement officer accompany him if he  
14 believes that a home visit is necessary.

15 After 10 accumulated unexcused absences in a school year the principal shall review  
16 any report or investigation prepared under G.S. 115C-381 and shall confer with the  
17 student and his parent, guardian, or custodian if possible to determine whether the parent,  
18 guardian, or custodian has received notification pursuant to this section and made a good  
19 faith effort to comply with the law. If the principal determines that parent, guardian, or  
20 custodian has not, he shall notify the district attorney. If he determines that parent,  
21 guardian, or custodian has, he may file a complaint with the juvenile intake counselor  
22 ~~under G.S. 7A-561~~ pursuant to Chapter 7B of the General Statutes that the child is  
23 habitually absent from school without a valid excuse. Evidence that shows that the  
24 parents, guardian, or custodian were notified and that the child has accumulated 10  
25 absences which cannot be justified under the established attendance policies of the local  
26 board shall establish a **prima facie** case that the child's parent, guardian, or custodian is  
27 responsible for the absences."

28 (t) G.S. 115C-400 reads as rewritten:

29 **"§ 115C-400. School personnel to report child abuse.**

30 Any person who has cause to suspect child abuse or neglect has a duty to report the  
31 case of the child to the Director of Social Services of the county, as provided in ~~G.S. 7A-~~  
32 ~~543 to 7A-552.~~ Article 3 of Chapter 7B of the General Statutes."

33 (u) G.S. 115C-404(a) reads as rewritten:

34 "(a) Written notifications received in accordance with ~~G.S. 7B-675.1~~ Article 31 of  
35 Chapter 7B of the General Statutes are confidential records, are not public records as  
36 defined under G.S.132-1, and shall not be made part of the student's official record under  
37 G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents  
38 in a safe, locked record storage that is separate from the student's other school records.  
39 The principal shall maintain these documents until the principal receives notification that  
40 the judge dismissed the ~~petition under G.S. 7A-637,~~ petition, the judge transferred  
41 jurisdiction over the student to superior ~~court under G.S. 7A-608,~~ court, or the judge  
42 granted the student's petition for expunction of the ~~records.~~ records pursuant to Chapter  
43 7B of the General Statutes. At that time, the principal shall shred, burn, or otherwise

1 destroy the documents to protect the confidentiality of this information. In no case shall  
2 the principal make a copy of these documents."

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

4 "(13a) 'Eligible assaultive and violent children' means children who are  
5 citizens of North Carolina and:

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

9 b. Who are involuntarily institutionalized or otherwise placed in  
10 residential programs, including:

11 1. Minors who are mentally ill as defined by G.S. 122C-  
12 3(21) and who are admitted for evaluation or treatment to  
13 a treatment facility under Article 5 of Chapter 122C of the  
14 General Statutes or are presented for admission and  
15 denied due to their behaviors or handicapping conditions;

16 2. Minors who are referred to an area mental health,  
17 developmental disabilities, and substance abuse authority  
18 pursuant to ~~G.S. 7A-647(3)~~ G.S. 7B-903 or G.S. 7B-2501  
19 for whom residential treatment or placement is  
20 recommended;

21 3. Minors who are placed in residential programs as a  
22 condition of probation pursuant to ~~G.S. 7A-649(8)~~; G.S.  
23 7B-2504;

24 4. Minors who are ordered to a professional residential  
25 treatment program pursuant to ~~G.S. 7A-649(6)~~; G.S. 7B-  
26 2504; and

27 5. Minors committed to the custody of the Division of Youth  
28 Services pursuant to ~~G.S. 7A-649(10)~~; G.S. 7B-2504; and

29 c. For whom the State has not provided appropriate treatment and  
30 educational programs."

31 (w) G.S. 122C-54(h) reads as rewritten:

32 "(h) A facility shall disclose confidential information for purposes of complying  
33 with Article ~~44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes and Article 6 of  
34 Chapter 108A of the General Statutes, or as required by other State or federal law."

35 (x) G.S. 122C-66(e) reads as rewritten:

36 "(e) The duty imposed by this section is in addition to any duty imposed by G.S.  
37 ~~7A-543-7B-301~~ or G.S. 108A-102."

38 (y) G.S. 122C-223(c) reads as rewritten:

39 "(c) If the legally responsible person cannot be located within 72 hours of  
40 admission, the responsible professional shall initiate proceedings for juvenile protective  
41 services as described in Article ~~44 of Chapter 7A-3~~ of Chapter 7B of the General Statutes  
42 in either the minor's county of residence or in the county in which the facility is located."

43 (z) G.S. 122C-421(a) reads as rewritten:

1       "(a) The Secretary may designate one or more special police officers who shall  
2 make up a joint security force to enforce the law of North Carolina and any ordinance or  
3 regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the  
4 authority granted the Department by any other law on the territory of the Black Mountain  
5 Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in  
6 Buncombe County. After taking the oath of office for law enforcement officers as set out  
7 in G.S. 11-11, these special police officers have the same powers as peace officers now  
8 vested in sheriffs within the territory embraced by the named centers. These special  
9 police officers shall also have the power prescribed by ~~G.S. 7A-571(a)(4)~~ G.S. 7B-1900  
10 outside the territory embraced by the named centers but within the confines of Buncombe  
11 County. These special police officers may arrest persons outside the territory of the  
12 named centers but within the confines of Buncombe County when the person arrested has  
13 committed a criminal offense within that territory, for which the officers could have  
14 arrested the person within that territory, and the arrest is made during the person's  
15 immediate and continuous flight from that territory."

16       (aa) G.S. 131D-10.2(3) reads as rewritten:

17       "(3) 'Child' means an individual less than 18 years of age, who has not been  
18 emancipated under the provisions of ~~Article 56 of Chapter 7A~~ Article 13  
19 of Chapter 7B of the General Statutes."

20       (bb) G.S. 131D-10.4(3) reads as rewritten:

21       "(3) Secure detention facilities as specified in Article 5 of Chapter 134A of  
22 the General Statutes;"

23       (cc) G.S. 132-1.4(l) reads as rewritten:

24       "(l) Records of investigations of alleged child abuse shall be governed by ~~G.S. 7A-~~  
25 ~~675-~~ G.S. 7B-1200."

26       (dd) G.S. 143-576(1) reads as rewritten:

27       "(1) Review current deaths of children when those deaths are attributed to  
28 child abuse or neglect or when the decedent was reported as an abused  
29 or neglected juvenile pursuant to ~~G.S. 7A-543~~ G.S. 7B-301 at any time  
30 before death;"

31       (ee) G.S. 143B-168.14(a)(3) reads as rewritten:

32       "(3) Each local partnership shall adopt procedures to ensure that all  
33 personnel who provide services to young children and their families  
34 under this Part know and understand their responsibility to report  
35 suspected child abuse, neglect, or dependency, as defined in ~~G.S. 7A-~~  
36 ~~517-~~ G.S. 7B-101."

37       (ff) G.S. 143B-496 reads as rewritten:

38 **"§ 143B-496. Definitions.**

39 For the purpose of this Part:

40       (1) 'Missing child' means a juvenile as defined in G.S. ~~7A-517(20)~~ 7B-101  
41 whose location has not been determined, who has been reported as  
42 missing to a law-enforcement agency, and whose parent's, spouse's,

1 guardian's or legal custodian's temporary or permanent residence is in  
2 North Carolina or is believed to be in North Carolina.

3 (2) 'Missing person' means any individual who is 18 years of age or older,  
4 whose temporary or permanent residence is in North Carolina, or is  
5 believed to be in North Carolina, whose location has not been  
6 determined, and who has been reported as missing to a law-enforcement  
7 agency.

8 (3) 'Missing person report' is a report prepared on a prescribed form for  
9 transmitting information about a missing person or a missing child to an  
10 appropriate law-enforcement agency."

11 (gg) Effective October 1, 1999, G.S. 14-208.31 reads as rewritten:

12 **"§ 14-208.31. File with Police Information Network.**

13 (a) The Division shall include the registration information in the Police  
14 Information Network as set forth in G.S. 114-10.1.

15 (b) The Division shall maintain the registration information permanently even  
16 after the registrant's reporting requirement expires; however, the records shall remain  
17 confidential in accordance with ~~G.S. 7A-675.~~ Article 32 of Chapter 7B of the General  
18 Statutes."

19  
20 **PART V. EFFECT OF HEADINGS, APPROPRIATIONS, SEVERABILITY,**  
21 **EFFECTIVE DATE.**

22  
23 Section 7. The headings to the parts of this act are a convenience to the reader  
24 and are for reference only. The headings do not expand, limit, or define the text of this  
25 act.

26 Section 8. There is established in the Office of State Budget and Management a  
27 reserve fund entitled the "Special Juvenile Justice Fund" to provide funds to implement  
28 the provisions of this act. There is appropriated from the General Fund to the Office of  
29 State Budget and Management the sum of forty million dollars (\$40,000,000) for the  
30 1998-99 fiscal year for the Special Juvenile Justice Fund. The Office of State Budget and  
31 Management shall report to the Chairs of the House and Senate Appropriations  
32 Committees on the intended use of the funds prior to expenditure of any funds from the  
33 Special Juvenile Justice Fund.

34 Section 9. If any section or provision of this act is declared unconstitutional or  
35 invalid by the courts, it does not affect the validity of this act as a whole or any part other  
36 than the part so declared to be unconstitutional or invalid.

37 Section 10. This section and Sections 8 and 9 become effective July 1, 1998.  
38 The remaining section become effective January 1, 1999 and, except for Section 4, apply  
39 to causes of action commenced and offenses arising on or after that date. Section 4  
40 applies to any placement of a minor who is in the custody or placement responsibility of a  
41 county department of social services on or after that date.