

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1720\*

Short Title: Adoption & Safe Families Act/Funds.

(Public)

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Sponsors: Representatives Culpepper; Warner and Watson.

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Referred to: Appropriations.

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June 1, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CUSTODY OF  
2 ABUSED AND NEGLECTED JUVENILES AND JUVENILES PLACED FOR  
3 ADOPTION IN CONFORMANCE WITH FEDERAL ADOPTION AND SAFE  
4 FAMILIES ACT REQUIREMENTS, AND TO APPROPRIATE FUNDS  
5 THEREFOR.  
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 7A-517. Definitions.**

10 Unless the context clearly requires otherwise, the following words have the listed  
11 meanings:

- 12 (1) Abused juveniles. – Any juvenile less than 18 years of age whose  
13 parent, guardian, custodian, or caretaker:  
14 a. Inflicts or allows to be inflicted upon the juvenile a serious  
15 physical injury by other than accidental means; or  
16 b. Creates or allows to be created a substantial risk of serious  
17 physical injury to the juvenile by other than accidental means; or  
18 b1. Uses or allows to be used upon the juvenile cruel or grossly  
19 inappropriate procedures or cruel or grossly inappropriate  
20 devices to modify behavior; or

- 1 c. Commits, permits, or encourages the commission of a violation  
2 of the following laws by, with, or upon the juvenile: first degree  
3 rape, as provided in G.S. 14-27.2; second degree rape as  
4 provided in G.S. 14-27.3; first degree sexual offense, as provided  
5 in G.S. 14-27.4; second degree sexual offense, as provided in  
6 G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-  
7 27.7; crime against nature, as provided in G.S. 14-177; incest, as  
8 provided in G.S. 14-178 and 14-179; preparation of obscene  
9 photographs, slides or motion pictures of the juvenile, as  
10 provided in G.S. 14-190.5; employing or permitting the juvenile  
11 to assist in a violation of the obscenity laws as provided in G.S.  
12 14-190.6; dissemination of obscene material to the juvenile as  
13 provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or  
14 disseminating material harmful to the juvenile as provided in  
15 G.S. 14-190.14 and G.S. 14-190.15; first and second degree  
16 sexual exploitation of the juvenile as provided in G.S. 14-190.16  
17 and G.S. 14-190.17; promoting the prostitution of the juvenile as  
18 provided in G.S. 14-190.18; and taking indecent liberties with the  
19 juvenile, as provided in G.S. 14-202.1, regardless of the age of  
20 the parties; or
- 21 d. Creates or allows to be created serious emotional damage to the  
22 juvenile. Serious emotional damage is evidenced by a juvenile's  
23 severe anxiety, depression, withdrawal or aggressive behavior  
24 toward himself or others; or
- 25 e. Encourages, directs, or approves of delinquent acts involving  
26 moral turpitude committed by the juvenile.
- 27 (2) Aftercare. – The supervision of a juvenile who has been returned to the  
28 community on conditional release after having been committed to the  
29 Division of Youth Services.
- 30 (3) Administrator for Juvenile Services. – The person who is responsible  
31 for the planning, organization, and administration of a statewide system  
32 of juvenile intake, probation, and aftercare services.
- 33 (3a) Aggravated circumstances. – Any circumstance attending to the  
34 commission of an act of abuse or neglect which increases its enormity  
35 or adds to its injurious consequences, including, but not limited to,  
36 abandonment, torture, chronic abuse, or sexual abuse.
- 37 (4) Director of the Division of Youth Services. – The person responsible for  
38 the supervision of the administration of institutional and detention  
39 services.
- 40 (5) Caretaker. – Any person other than a parent, guardian, or custodian who  
41 has responsibility for the health and welfare of a juvenile in a residential  
42 setting. A person responsible for a juvenile's health and welfare means a  
43 stepparent, foster parent, an adult member of the juvenile's household,

1 an adult relative entrusted with the juvenile's care, or any person such as  
2 a house parent or cottage parent who has primary responsibility for  
3 supervising a juvenile's health and welfare in a residential child care  
4 facility or residential educational facility. "Caretaker" also means any  
5 person who has the responsibility for the care of a juvenile in a child  
6 care facility as defined in Article 7 of Chapter 110 of the General  
7 Statutes and includes any person who has the approval of the care  
8 provider to assume responsibility for the juveniles under the care of the  
9 care provider. Nothing in this subdivision shall be construed to impose a  
10 legal duty of support under Chapter 50 or Chapter 110 of the General  
11 Statutes. The duty imposed upon a caretaker as defined in this  
12 subdivision shall be for the purpose of Chapter 7A of the General  
13 Statutes only.

- 14 (6) Chief Court Counselor. – The person responsible for administration and  
15 supervision of juvenile intake, probation, and aftercare in each judicial  
16 district, operating under the supervision of the Administrator for  
17 Juvenile Services.
- 18 (7) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy  
19 clerk.
- 20 (8) Community-based program. – A program providing nonresidential or  
21 residential treatment to a juvenile in the community where his family  
22 lives. A community-based program may include specialized foster care,  
23 family counseling, shelter care, and other appropriate treatment.
- 24 (9) Court. – The District Court Division of the General Court of Justice.
- 25 (9a) Court of competent jurisdiction. – A court having the power and  
26 authority of law to act at the time of acting over the subject matter of the  
27 cause.
- 28 (10) Court counselor. – A person responsible for probation and aftercare  
29 services to juveniles on probation or on conditional release from the  
30 Division of Youth Services under the supervision of the chief court  
31 counselor.
- 32 (11) Custodian. – The person or agency that has been awarded legal custody  
33 of a juvenile by a court.
- 34 (12) Delinquent juvenile. – Any juvenile less than 16 years of age who has  
35 committed a crime or infraction under State law or under an ordinance  
36 of local government, including violation of the motor vehicle laws.
- 37 (13) Dependent Juvenile. – A juvenile in need of assistance or placement  
38 because the juvenile has no parent, guardian, or custodian responsible  
39 for the juvenile's care or supervision or whose parent, guardian, or  
40 custodian is unable to provide for the care or supervision and lacks an  
41 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) 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) 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 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) Judge. – Any district court judge.
- 23 (19a) 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) Neglected Juvenile. – A juvenile who does not receive proper care,  
36 supervision, or discipline from the juvenile's parent, guardian,  
37 custodian, or caretaker; or who has been abandoned; or who is not  
38 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 welfare; or who has been placed for care or adoption in violation of law.  
41 In determining whether a juvenile is a neglected juvenile, it is relevant  
42 whether that juvenile lives in a home where another juvenile has been

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

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

38          Section 2. G.S. 7A-544 reads as rewritten:  
39          "**§ 7A-544. Investigation by Director; access to confidential information; notification**  
40          **of person making the report.**

41          When a report of abuse, neglect, or dependency is received, the Director of the  
42          Department of Social Services shall make a prompt and thorough investigation in order to  
43          ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to

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

9 When a report of a juvenile's death as a result of suspected maltreatment or a report of  
10 suspected abuse, neglect, or dependency of a juvenile is received, the Director of the  
11 Department of Social Services shall immediately ascertain if other juveniles ~~remain in the~~  
12 ~~home,~~ reside in the family home of the alleged perpetrator, and, if so, initiate an  
13 investigation in order to determine whether they require protective services or whether  
14 immediate removal of the juveniles from the home is necessary for their protection.

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

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

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

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

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

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

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

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

25 (a) A juvenile meeting the criteria set out in G.S. 7A-574, subsection (a), may be  
26 placed in nonsecure custody with the Department of Social Services or a person  
27 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 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 in nonsecure custody under this ~~section and under G.S. 7A-629 and~~  
34 ~~G.S. 7A-651, section~~, the court shall first consider whether a relative of the juvenile is  
35 willing and able to provide proper care and supervision of the juvenile in a safe home. If  
36 the court finds that the relative is willing and able to provide proper care and supervision  
37 in a safe home, then the court shall order placement of the juvenile with the ~~relative~~.  
38 relative unless the court finds that the placement is contrary to the best interests of the  
39 juvenile. Prior to placement Placement of a juvenile with a relative outside of this State, the  
40 ~~placement~~ State must be in accordance with the Interstate Compact on the Placement of  
41 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 Section 4. G.S. 7A-577 reads as rewritten:

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

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

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

26 (c) At a hearing to determine the need for continued custody, the judge shall  
27 receive testimony and shall allow the juvenile, and the juvenile's parent, guardian, or  
28 custodian an opportunity to introduce evidence, to be heard in their own behalf, and to  
29 examine witnesses. The State shall bear the burden at every stage of the proceedings to  
30 provide clear and convincing evidence that restraints on the juvenile's liberty are  
31 necessary and that no less intrusive alternative will suffice. The judge shall not be bound  
32 by the usual rules of evidence at such hearings.

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

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

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

39 or

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

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



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

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

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

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

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

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

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

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

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

40 (1) Inquire as to the identity and location of any missing parent. The court  
41 shall include findings as to the efforts undertaken to locate the missing  
42 parent and to serve that parent. The order may provide for specific

- 1 efforts aimed at determining the identity and location of any missing  
2 parent;
- 3 (2) Inquire as to whether a relative of the juvenile is willing and able to  
4 provide proper care and supervision of the juvenile in a safe home. If  
5 the court finds that the relative is willing and able to provide proper care  
6 and supervision in a safe home, then the court shall order temporary  
7 placement of the juvenile with the ~~relative~~ relative unless the court finds  
8 that the placement is contrary to the best interests of the juvenile. ~~Prior~~  
9 ~~to placement~~ Placement of a juvenile with a relative outside of this State,  
10 ~~the placement~~ State must be in accordance with the Interstate Compact  
11 on the Placement of Children; and
- 12 (3) Inquire as to whether there are other juveniles remaining in the home  
13 from which the juvenile was removed and, if there are, inquire as to the  
14 specific findings of the investigation conducted under G.S. 7A-544 and  
15 any actions taken or services provided by the Director for the protection  
16 of the other juveniles."

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

19 "**§ 7A-577.1. Reasonable efforts.**

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

- 23 (1) Shall contain a finding that the juvenile's continuation in or return to the  
24 juvenile's own home would be contrary to the juvenile's best interest;
- 25 (2) Shall contain findings as to whether a county department of social  
26 services has made reasonable efforts to prevent or eliminate the need for  
27 placement of the juvenile, unless the court has previously determined  
28 under subsection (b) of this section that such efforts are not required or  
29 shall cease;
- 30 (3) Shall contain findings as to whether a county department of social  
31 services should continue to make reasonable efforts to prevent or  
32 eliminate the need for placement of the juvenile, unless the court has  
33 previously determined or determines under subsection (b) of this section  
34 that such efforts are not required or shall cease;
- 35 (4) Shall specify that the juvenile's placement and care are the responsibility  
36 of the county department of social services and that the agency is to  
37 provide or arrange for the foster care or other placement of the juvenile;  
38 and
- 39 (5) May provide for services or other efforts aimed at returning the juvenile  
40 to a safe home or at achieving another permanent plan for the juvenile.

41 A finding that reasonable efforts have not been made by a county department of social  
42 services shall not preclude the entry of an order authorizing the juvenile's placement  
43 when the court finds that placement is necessary for the protection of the juvenile. Where

1 efforts to prevent the need for the juvenile's placement were precluded by an immediate  
2 threat of harm to the juvenile, the court may find that the placement of the juvenile in the  
3 absence of such efforts was reasonable.

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

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

12 (2) A court of competent jurisdiction has determined that the parent has  
13 subjected the child to aggravated circumstances as defined in G.S. 7A-  
14 517(3a);

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

17 (4) A court of competent jurisdiction has determined that: the parent has  
18 committed murder or voluntary manslaughter of another child of the  
19 parent; has aided, abetted, attempted, conspired, or solicited to commit  
20 murder or voluntarily manslaughter of the child or another child of the  
21 parent; or has committed a felony assault resulting in serious bodily  
22 injury to the child or another child of the parent.

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

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

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

34 **"§ 7A-629. Adjudicatory hearing.**

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

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

41 **"§ 7A-647. Dispositional alternatives for delinquent, undisciplined, abused,**  
42 **neglected, or dependent juvenile.**

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

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

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

8 a. Require that he be supervised in his own home by the  
9 Department of Social Services in his county, a court counselor or  
10 other personnel as may be available to the court, subject to  
11 conditions applicable to the parent or the juvenile as the judge  
12 may specify; or

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

15 c. Place him in the custody of the Department of Social Services in  
16 the county of his residence, or in the case of a juvenile who has  
17 legal residence outside the State, in the physical custody of the  
18 Department of Social Services in the county where he is found so  
19 that agency may return the juvenile to the responsible authorities  
20 in his home state. The Director may, unless otherwise ordered by  
21 the judge, arrange for, provide, or consent to, needed routine or  
22 emergency medical or surgical care or treatment. In the case  
23 where the parent is unknown, unavailable or unable to act on  
24 behalf of their child or children, the Director may, unless  
25 otherwise ordered by the judge, arrange for, provide or consent to  
26 any psychiatric, psychological, educational, or other remedial  
27 evaluations or treatment for the juvenile placed by a judge or his  
28 designee in the custody or physical custody of a county  
29 Department of Social Services under the authority of this or any  
30 other Chapter of the General Statutes. Prior to exercising this  
31 authority, the Director shall make reasonable efforts to obtain  
32 consent from a parent or guardian of the affected child. If the  
33 Director can not obtain such consent, the Director shall promptly  
34 notify the parent or guardian that care or treatment has been  
35 provided and shall give him frequent status reports on the  
36 circumstances of the child. Upon request of a parent or guardian  
37 of the affected child, the results or records of the aforementioned  
38 evaluations, findings or treatment shall be made available to such  
39 parent or guardian by the Director unless prohibited by G.S.  
40 122C-53(d). If a juvenile is removed from the home and placed  
41 in custody or placement responsibility of a county department of  
42 social services, the Director shall not allow unsupervised  
43 visitation with, or return physical custody of the juvenile to, the

1           parent or person standing in loco parentis without a hearing at  
2           which the court finds that the juvenile will receive proper care  
3           and supervision in a safe home.

4           In placing a juvenile in out-of-home care under this section,  
5           the court shall first consider whether a relative of the juvenile is  
6           willing and able to provide proper care and supervision of the  
7           juvenile in a safe home. If the court finds that the relative is  
8           willing and able to provide proper care and supervision in a safe  
9           home, then the court shall order placement of the juvenile with  
10           the relative unless the court finds that the placement is contrary  
11           to the best interests of the juvenile. Placement of a juvenile with  
12           a relative outside of this State must be in accordance with the  
13           Interstate Compact on the Placement of Children.

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

17           a. Upon completion of the examination, the judge shall conduct a  
18           hearing to determine whether the juvenile is in need of medical,  
19           surgical, psychiatric, psychological, or other treatment and who  
20           should pay the cost of the treatment. The county manager, or  
21           such person who shall be designated by the chairman of the  
22           county commissioners, of the juvenile's residence shall be  
23           notified of the hearing, and allowed to be heard. If the judge  
24           finds the juvenile to be in need of medical, surgical, psychiatric,  
25           psychological or other treatment, the judge shall permit the  
26           parent or other responsible persons to arrange for treatment. If  
27           the parent declines or is unable to make necessary arrangements,  
28           the judge may order the needed treatment, surgery or care, and  
29           the judge may order the parent to pay the cost of the care  
30           pursuant to G.S. 7A-650. If the judge finds the parent is unable to  
31           pay the cost of treatment, the judge shall order the county to  
32           arrange for treatment of the juvenile and to pay for the cost of the  
33           treatment. The county department of social services shall  
34           recommend the facility that will provide the juvenile with  
35           treatment.

36           b. If the judge believes, or if there is evidence presented to the  
37           effect that the juvenile is mentally ill or is developmentally  
38           disabled, the judge shall refer the juvenile to the area mental  
39           health, developmental disabilities, and substance abuse services  
40           director for appropriate action. A juvenile shall not be committed  
41           directly to a State hospital or mental retardation center; and  
42           orders purporting to commit a juvenile directly to a State hospital  
43           or mental retardation center except for an examination to

1 determine capacity to proceed shall be void and of no effect. The  
2 area mental health, developmental disabilities, and substance  
3 abuse director shall be responsible for arranging an  
4 interdisciplinary evaluation of the juvenile and mobilizing  
5 resources to meet the juvenile's needs. If institutionalization is  
6 determined to be the best service for the juvenile, admission shall  
7 be with the voluntary consent of the parent or guardian. If the  
8 parent, guardian, or custodian refuses to consent to a mental  
9 hospital or retardation center admission after such  
10 institutionalization is recommended by the area mental health,  
11 developmental disabilities, and substance abuse director, the  
12 signature and consent of the judge may be substituted for that  
13 purpose. In all cases in which a regional mental hospital refuses  
14 admission to a juvenile referred for admission by a judge and an  
15 area mental health, developmental disabilities, and substance  
16 abuse director or discharges a juvenile previously admitted on  
17 court referral prior to completion of his treatment, the hospital  
18 shall submit to the judge a written report setting out the reasons  
19 for denial of admission or discharge and setting out the juvenile's  
20 diagnosis, indications of mental illness, indications of need for  
21 treatment, and a statement as to the location of any facility  
22 known to have a treatment program for the juvenile in question.

- 23 (4) In any case in which a juvenile, who was at least eleven years of age at  
24 the time of the offense, is adjudicated delinquent for committing a  
25 violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second  
26 degree rape), 14-27.4 (first degree sexual offense), 14-27.5 (second  
27 degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual  
28 offense), the judge, upon a finding that the juvenile is a danger to the  
29 community, may order that the juvenile register in accordance with Part  
30 4 of Article 27A of Chapter 14 of the General Statutes."

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

32 **"§ 7A-651. Dispositional order.**

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

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

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

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

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

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

19 (d) ~~An order that places a juvenile in the custody of a county department of social~~  
20 ~~services for placement shall specify that the juvenile's placement and care are the~~  
21 ~~responsibility of the county department of social services and that the county department~~  
22 ~~is to provide or arrange for the foster care or other placement of the juvenile. Any~~  
23 dispositional order shall provide for appropriate visitation as may be in the best interests  
24 of the juvenile and consistent with the juvenile's health and safety. If the juvenile is  
25 placed in the custody or placement responsibility of a county department of social  
26 services, the court may order the director to arrange, facilitate, and supervise a visitation  
27 plan expressly approved by the court.

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

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

39 "**§ 7A-657. Review of custody order.**

40 (a) In any case where custody is removed from a ~~parent, parent or person standing~~  
41 in loco parentis, the judge shall conduct a review hearing within six months of 90 days  
42 from the date the order was entered, of the dispositional hearing shall conduct a second  
43 review within six months after the first review, and shall conduct a subsequent reviews

1 review hearing within six months at least every year thereafter. The Director of Social  
2 Services shall make a timely requests-request to the clerk to calendar the case each review  
3 at a session of court scheduled for the hearing of juvenile matters. matters within six  
4 months of the date the order was entered. The Director shall make timely requests for  
5 calendar subsequent reviews. The clerk shall give 15 days' notice of the review and its  
6 purpose to the parent or and to any the person standing in loco parentis, the juvenile if 12  
7 years of age or more, the guardian, any foster parent, relative, or preadoptive parent  
8 providing care for the child, the custodian or agency with custody, the guardian ad litem,  
9 and any other person or agency the court may specify, indicating the court's impending  
10 review. Nothing in this subsection shall be construed to make any foster parent, relative,  
11 or preadoptive parent a party to the proceeding solely based on receiving notice and an  
12 opportunity to be heard.

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

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

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

31 (c) At every review hearing, the court shall consider information from ~~the~~  
32 ~~Department of Social Services, the court counselor, the juvenile, the parent or person~~  
33 ~~standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any~~  
34 ~~public or private agency~~ the parent, any person standing in loco parentis, the juvenile, the  
35 guardian, any foster parent, relative, or preadoptive parent providing care for the child,  
36 the custodian or agency with custody, the guardian ad litem, and any other person or  
37 agency which will aid it in its review.

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

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



- 1 (2) Where the juvenile's return home is unlikely, the efforts which have  
2 been made to evaluate or plan for other methods of care;  
3 (3) Goals of the foster care placement and the appropriateness of the foster  
4 care plan;  
5 (4) A new foster care plan, if continuation of care is sought, that addresses  
6 the role the current foster parent will play in the planning for the  
7 juvenile;  
8 (5) Reports on the placements the juvenile has had and any services offered  
9 to the juvenile and the parent;  
10 (5a) An appropriate visitation plan;  
11 (5b) If the juvenile is 16 or 17 years of age, a report on an independent living  
12 assessment of the juvenile and, if appropriate, an independent living  
13 plan developed for the juvenile;  
14 (6) When and if termination of parental rights should be considered;  
15 (7) Any other criteria the court deems necessary.

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

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

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

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

42 **"§ 7A-657.1. Permanency planning hearing.**

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

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

- 26       (1) Whether it is possible for the juvenile to be returned home immediately  
27 or within the next six months, and if not, why it is not in the juvenile's  
28 best interests to return home;  
29       (2) Where the juvenile's return home is unlikely within six months, whether  
30 legal guardianship or custody with a relative or some other suitable  
31 person should be established, and if so, the rights and responsibilities  
32 which should remain with the parents;  
33       (3) Where the juvenile's return home is unlikely within six months, whether  
34 adoption should be pursued and if so, any barriers to the juvenile's  
35 adoption;  
36       (4) Where the juvenile's return home is unlikely within six months, whether  
37 the juvenile should remain in the current placement or be placed in  
38 another permanent living arrangement and why;  
39       (5) Whether the county department of social services has since the initial  
40 permanency plan hearing made reasonable efforts to implement the  
41 permanent plan for the juvenile;  
42       (6) Any other criteria the court deems necessary.

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

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

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

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

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

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

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

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

40       "**§ 7A-659. Post termination of parental rights' placement court review.**

41       (a) The purpose of each placement review is to insure that every reasonable effort  
42 is being made to provide for a permanent placement plan for the child who has been  
43 placed in the custody of a county director or licensed child-placing agency, which is

1 consistent with the child's best interest. At each review hearing the court may consider  
2 information from the Department of Social Services, the licensed child-placing agency,  
3 the guardian ad litem, the child, ~~the~~ any foster parent, relative, or preadoptive parent  
4 providing care for the child, and any other person or agency the court determines is likely  
5 to aid in the review.

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

12 (1) No more than 30 days and no less than 15 days prior to each review, the  
13 clerk shall give notice of the review to the child if he is at least 12 years  
14 of age, the legal custodian of the child, ~~the~~ any foster parent, relative, or  
15 preadoptive parent providing care for the child, the guardian ad litem, if  
16 any, and any other person or agency the court may specify. Only the  
17 child if he is at least 12 years of age, the legal custodian of the child, ~~the~~  
18 any foster parent, relative, or preadoptive parent providing care for the  
19 child, and the guardian ad litem shall attend the review hearings, except  
20 as otherwise directed by the court. Nothing in this subdivision shall be  
21 construed to make any foster parent, relative, or preadoptive parent a  
22 party to the proceeding solely based on receiving notice and an  
23 opportunity to be heard.

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

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

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

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

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

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

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

5 (f) The process of selection of specific adoptive parents shall be the responsibility  
6 of and within the discretion of the county department of social services or licensed child-  
7 placing agency. The guardian ad litem may request information from and consult with  
8 the county department or child-placing agency concerning the selection process. If the  
9 guardian ad litem requests information about the selection process, the county shall  
10 provide the information within five days. Any issue of abuse of discretion by the county  
11 department or child-placing agency in the selection process must be raised by the  
12 guardian ad litem within 10 days following the date the agency notifies the court and the  
13 guardian ad litem in writing of the filing of the adoption petition."

14 Section 10. G.S. 78A-289.27 reads as rewritten:

15 "**§ 7A-289.27. Issuance of summons.**

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

- 19 (1) The parents of the child;
- 20 (2) Any person who has been judicially appointed as guardian of the person  
21 of the child;
- 22 (3) The custodian of the child appointed by a court of competent  
23 jurisdiction;
- 24 (4) Any county department of social services or licensed child-placing  
25 agency to whom a child has been released by one parent pursuant to Part  
26 7 of Article 3 of Chapter 48 of the General Statutes; Statutes or any  
27 county department of social services to whom placement responsibility  
28 for the child has been given by a court of competent jurisdiction; and
- 29 (5) The child, if he or she is 12 years of age or older at the time the petition  
30 is filed.

31 Provided, no summons need be directed to or served upon any parent who has  
32 previously surrendered the child to a county department of social services or licensed  
33 child-placing agency, nor to any parent who has consented to the adoption of the child by  
34 the petitioner. The summons shall notify the respondents to file a written answer within  
35 30 days after service of the summons and petition. Service of the summons shall be  
36 completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the  
37 parent of the child shall not be deemed to be under disability even though such parent is a  
38 minor.

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

- 41 (1) The name of the minor child;

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

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

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

19 **"§ 7A-289.32. Grounds for terminating parental rights.**

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

- 22 (1) Repealed by Session Laws 1979, c. 669, s. 2.
- 23 (2) The parent has abused or neglected the child. The child shall be deemed  
24 to be abused or neglected if the court finds the child to be an abused  
25 child within the meaning of G.S. 7A-517(1), or a neglected child within  
26 the meaning of G.S. 7A-517(21).
- 27 (3) The parent has willfully left the child in foster care or placement outside  
28 the home for more than 12 months without showing to the satisfaction  
29 of the court that reasonable progress under the circumstances has been  
30 made within 12 months in correcting those conditions which led to the  
31 removal of the child. Provided, however, that no parental rights shall be  
32 terminated for the sole reason that the parents are unable to care for the  
33 child on account of their poverty.
- 34 (3a) The burden in such proceedings shall be upon the petitioner to prove the  
35 facts justifying such termination by clear and convincing evidence.
- 36 (4) The child has been placed in the custody of a county Department of  
37 Social Services, a licensed child-placing agency, a child-caring  
38 institution, or a foster home, and the parent, for a continuous period of  
39 six months next preceding the filing of the petition, has willfully failed  
40 for such period to pay a reasonable portion of the cost of care for the  
41 child although physically and financially able to do so.
- 42 (5) One parent has been awarded custody of the child by judicial decree, or  
43 has custody by agreement of the parents, and the other parent whose

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

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

- 7 a. Establish(ed) paternity judicially or by affidavit which has been  
8 filed in a central registry maintained by the Department of Health  
9 and Human Services; provided, the court shall inquire of the  
10 Department of Health and Human Services as to whether such an  
11 affidavit has been so filed and shall incorporate into the case  
12 record the Department's certified reply; or  
13 b. Legitimated the child pursuant to provisions of G.S. 49-10, or  
14 filed a petition for this specific purpose; or  
15 c. Legitimated the child by marriage to the mother of the child; or  
16 d. Provided substantial financial support or consistent care with  
17 respect to the child and mother.

18 (7) That the parent is incapable of providing for the proper care and  
19 supervision of the child, such that the child is a dependent child within  
20 the meaning of G.S. 7A-517(13), and that there is a reasonable  
21 probability that such incapability will continue for the foreseeable  
22 future. Incapability under this subdivision may be the result of substance  
23 abuse, mental retardation, mental illness, organic brain syndrome, or  
24 any other similar cause or condition.

25 (8) The parent has willfully abandoned the child for at least six consecutive  
26 months immediately preceding the filing of the petition. For the purpose  
27 of this subdivision, a child may be willfully abandoned by his or her  
28 natural father if the mother of the child had been willfully abandoned by  
29 and was living separate and apart from the father at the time of the  
30 child's birth, although the father may not have known of such birth; but  
31 in any event the child must be over the age of three months at the time  
32 of the filing of the petition.

33 (9) The parent has committed murder or voluntary manslaughter of another  
34 child of the parent; has aided, abetted, attempted, conspired, or solicited  
35 to commit murder or voluntary manslaughter of the child or another  
36 child of the parent; or has committed a felony assault that results in  
37 serious bodily injury to the child or another child of the parent.

38 (10) The parental rights of the parent with respect to another child of the  
39 parent have been terminated involuntarily by a court of competent  
40 jurisdiction and the parent lacks the ability or willingness to establish a  
41 safe home."

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

43 "§ 48-1-101. Definitions.

1 In this Chapter, the following definitions apply:

- 2 (1) "Adoptee" means an individual who is adopted, is placed for adoption,  
3 or is the subject of a petition for adoption properly filed with the court.
- 4 (2) "Adoption" means the creation by law of the relationship of parent and  
5 child between two individuals.
- 6 (3) "Adult" means an individual who has attained 18 years of age, or if  
7 under the age of 18, is either married or has been emancipated under the  
8 applicable State law.
- 9 (3a) "Adoption facilitator" means an individual or a nonprofit entity that  
10 assists biological parents in locating and evaluating prospective  
11 adoptive parents without charge.
- 12 (4) "Agency" means a public or private association, corporation, institution,  
13 or other person or entity that is licensed or otherwise authorized by the  
14 law of the jurisdiction where it operates to place minors for adoption.  
15 "Agency" also means a county department of social services in this  
16 State.
- 17 (5) "Child" means a son or daughter, whether by birth or adoption.
- 18 (5a) "Criminal history" means a county, State, or federal criminal history of  
19 conviction or a pending indictment of a crime, whether a misdemeanor  
20 or a felony, that bears upon an individual's fitness to have responsibility  
21 for the safety and well-being of children, including the following North  
22 Carolina crimes contained in any of the following Articles of Chapter 14  
23 of the General Statutes: Article 6, Homicide; Article 7A, Rape and  
24 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and  
25 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive  
26 or Incendiary Device or Material; Article 26, Offenses Against Public  
27 Morality and Decency; Article 27, Prostitution; Article 39, Protection of  
28 Minors; Article 40, Protection of the Family; and Article 59, Public  
29 Intoxication. Such crimes also include possession or sale of drugs in  
30 violation of the North Carolina Controlled Substances Act, Article 5 of  
31 Chapter 90 of the General Statutes, and alcohol-related offenses such as  
32 sale to underage persons in violation of G.S. 18B-302 or driving while  
33 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In  
34 addition to the North Carolina crimes listed in this subdivision, such  
35 crimes also include similar crimes under federal law or under the laws  
36 of other states.
- 37 (6) "Department" means the North Carolina Department of Health and  
38 Human Services.
- 39 (7) "Division" means the Division of Social Services of the Department.
- 40 (8) "Guardian" means an individual, other than a parent, appointed by a  
41 clerk of court in North Carolina to exercise all of the powers conferred  
42 by G.S. 35A-1241, including a standby guardian appointed under  
43 Article 21 of Chapter 35A of the General Statutes whose authority has



1 actually commenced; and also means an individual, other than a parent,  
2 appointed in another jurisdiction according to the law of that jurisdiction  
3 who has the power to consent to adoption under the law of that  
4 jurisdiction.

5 (9) " Legal custody" of an individual means the general right to exercise  
6 continuing care of and control over the individual as authorized by law,  
7 with or without a court order, and:

8 a. Includes the right and the duty to protect, care for, educate, and  
9 discipline the individual;

10 b. Includes the right and the duty to provide the individual with  
11 food, shelter, clothing, and medical care; and

12 c. May include the right to have physical custody of the individual.

13 (10) " Minor" means an individual under 18 years of age who is not an adult.

14 (11) " Party" means a petitioner, adoptee, or any person whose consent to an  
15 adoption is necessary under this Chapter but has not been obtained.

16 (12) " Physical custody" means the physical care of and control over an  
17 individual.

18 (13) " Placement" means transfer of physical custody of a minor to the  
19 selected prospective adoptive parent. Placement may be either:

20 a. Direct placement by a parent or the guardian of the minor; or

21 b. Placement by an agency.

22 (14) " Preplacement assessment" means a document, whether prepared before  
23 or after placement, that contains the information required by G.S. 48-3-  
24 303 and any rules adopted by the Social Services Commission.

25 (15) " Relinquishment" means the voluntary surrender of a minor to an  
26 agency for the purpose of adoption.

27 (16) " Report to the court" means a document prepared in accordance with  
28 G.S. 48-2-501, et seq.

29 (17) " State" means a state as defined in G.S. 12-3(11).

30 (18) " Stepparent" means an individual who is the spouse of a parent of a  
31 child, but who is not a legal parent of the child."

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

33 **"§ 48-3-203. Agency placement adoption.**

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

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

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

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

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

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

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

17 "**§ 48-3-303. Content and timing of preplacement assessment.**

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

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

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

- 25 (1) Age and date of birth, nationality, race, or ethnicity, and any religious  
26 preference;
- 27 (2) Marital and family status and history, including the presence of any  
28 children born to or adopted by the individual and any other children in  
29 the household;
- 30 (3) Physical and mental health, including any addiction to alcohol or drugs;
- 31 (4) Educational and employment history and any special skills;
- 32 (5) Property and income, and current financial information provided by the  
33 individual;
- 34 (6) Reason for wanting to adopt;
- 35 (7) Any previous request for an assessment or involvement in an adoptive  
36 placement and the outcome of the assessment or placement;
- 37 (8) Whether the individual has ever been a respondent in a domestic  
38 violence proceeding or a proceeding concerning a minor who was  
39 allegedly abused, dependent, neglected, abandoned, or delinquent, and  
40 the outcome of the proceeding;
- 41 (9) Whether the individual has ever been convicted of a crime other than a  
42 minor traffic violation;

1 (10) Whether the individual has located a parent interested in placing a child  
2 with the individual for adoption and a brief, nonidentifying description  
3 of the parent and the child; and

4 (11) Any other fact or circumstance that may be relevant to a determination  
5 of the individual's suitability to be an adoptive parent, including the  
6 quality of the environment in the home and the functioning of any  
7 children in the household.

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

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

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

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

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

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

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

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

36 "**§ 48-3-309. Mandatory preplacement criminal checks of prospective adoptive**  
37 **parents seeking to adopt a minor who is in the custody or placement**  
38 **responsibility of a county department of social services.**

39 (a) The department shall ensure that the criminal histories of all prospective  
40 adoptive parents seeking to adopt a minor who is in the custody or placement  
41 responsibility of a county department of social services are checked prior to placement  
42 and, based on the criminal history, a determination is made as to the individual's fitness to  
43 have responsibility for the safety and well-being of children. The department shall ensure

1 that all prospective adoptive parents seeking to adopt a minor who is in the custody or  
2 placement responsibility of a county department of social services are checked prior to  
3 placement for county, state, and federal criminal histories.

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

8 (c) The Department of Justice shall provide to the Department of Health and  
9 Human Services the criminal history of such a prospective adoptive parent obtained from  
10 the State and National Repositories of Criminal Histories as requested by the Department.  
11 The Department shall provide to the Department of Justice, along with the request, the  
12 fingerprints of the prospective adoptive parent to be checked, any additional information  
13 required by the Department of Justice, and a form consenting to the check of the criminal  
14 record and to the use of fingerprints and other identifying information required by the  
15 State or National Repositories signed by the individual to be checked. The fingerprints of  
16 the prospective adoptive parent shall be forwarded to the State Bureau of Investigation  
17 for a search of the State's criminal history record file, and the State Bureau of  
18 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for  
19 a national criminal history record check.

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

23 **"NOTICE**

24 MANDATORY CRIMINAL HISTORY CHECK NORTH CAROLINA LAW  
25 REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED  
26 PRIOR TO PLACEMENT ON PROSPECTIVE ADOPTIVE PARENTS  
27 SEEKING TO ADOPT A MINOR WHO IS IN THE CUSTODY OR  
28 PLACEMENT RESPONSIBILITY OF A COUNTY DEPARTMENT OF  
29 SOCIAL SERVICES.

30  
31 "Criminal history" means a county, state, or federal criminal history of conviction  
32 or a pending indictment of a crime, whether a misdemeanor or a felony, that bears  
33 upon an individual's fitness to have responsibility for the safety and well-being of  
34 children, including the following North Carolina crimes contained in any of the  
35 following Articles of Chapter 14 of the General Statutes: Article 6, Homicide;  
36 Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10,  
37 Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of  
38 Explosive or Incendiary Device or Material; Article 26, Offenses Against Public  
39 Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors;  
40 Article 40, Protection of the Family; and Article 59, Public Intoxication; violation  
41 of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the  
42 General Statutes, and alcohol-related offenses such as sale to underage persons in  
43 violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1

1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of  
2 other states. Your fingerprints will be used to check the criminal history records  
3 of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation  
4 (FBI).

5  
6 If it is determined, based on your criminal history, that you are unfit to have  
7 responsibility for the safety and well-being of children, you shall have the  
8 opportunity to complete, or challenge the accuracy of, the information contained  
9 in the SBI or FBI identification records.

10  
11 If you are denied a favorable preplacement assessment by a county department of  
12 social services as a result of the criminal history check, you may request a review  
13 of the assessment pursuant G.S. to 48-3-308(a).

14  
15 Any prospective adoptive parent who intentionally falsifies any information  
16 required to be furnished to conduct the criminal history is guilty of a Class 2  
17 misdemeanor."

18  
19 Refusal to consent to a criminal history check is grounds for the issuance by a county  
20 department of social services of an unfavorable preplacement assessment. Any  
21 prospective adoptive parent who intentionally falsifies any information required to be  
22 furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

23 (e) The department shall notify the prospective adoptive parent's supervising  
24 county department of social services of the results of the criminal history check in  
25 accordance with the federal and State law regulating the dissemination of the contents of  
26 the criminal history file. The department shall not release nor disclose any portion of the  
27 prospective adoptive parent's criminal history to the prospective adoptive parent. The  
28 department shall also ensure that the prospective adoptive parent is notified of the  
29 prospective adoptive parent's right to review the criminal history information, the  
30 procedure for completing or challenging the accuracy of the criminal history, and the  
31 prospective adoptive parent's right to contest the preplacement assessment of the county  
32 department of social services.

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

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

41 (g) There is no liability for negligence on the part of a State or local agency, or the  
42 employees of a State or local agency, arising from any action taken or omission by any of  
43 them in carrying out the provisions of this section. The immunity established by this

1 subsection shall not extend to gross negligence, wanton conduct, or intentional  
2 wrongdoing that would otherwise be actionable. The immunity established by this  
3 subsection shall be deemed to have been waived to the extent of indemnification by  
4 insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and  
5 to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in  
6 Article 31 of Chapter 143 of the General Statutes.

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

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

16 **"§ 114-4-19.7. Criminal record checks prior to placement of prospective adoptive**  
17 **parents seeking to adopt a minor who is in the custody or placement**  
18 **responsibility of a county department of social services.**

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

35 Section 17. There is appropriated from the General Fund to the Department of  
36 Health and Human Services, Division of Social Services, the sum of ninety-five thousand  
37 three hundred ninety-nine dollars (\$95,399) for the 1998-99 fiscal year to implement  
38 Sections 12 through 16 of this act.

39 Section 18. Sections 1 through 9 of this act become effective December 1,  
40 1998, and apply to abuse, neglect, and dependency reports received, juvenile petitions  
41 filed, and review hearings commenced on and after that date. Sections 10 and 11 of this  
42 act become effective December 1, 1998, and apply to termination of parental rights  
43 petitions filed on and after that date. Sections 12 through 16 of this act become effective

- 1 January 1, 1999, and apply to any placement of a minor who is in the custody or
- 2 placement responsibility of a county department of social services on and after that date.
- 3 The remainder of this act is effective when it becomes law.