

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 950

Short Title: Juvenile Hearing Officers.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR JUVENILE COURT HEARING OFFICERS IN ABUSE,
NEGLECT, AND DEPENDENCY CASES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new
Article to read:

"ARTICLE 59.

"HEARING OFFICERS FOR ABUSE, NEGLECT, AND DEPENDENCY CASES.

"§ 7A-745. Authorization and Designation of Hearing Officers.

(a) Authorization and Designation of Hearing Officers. – One or more juvenile court hearing officers may be designated in a county or district court district when the chief district judge in the district and the Director of the Administrative Office of the Courts determine by agreement that the use of one or more hearing officers in abuse, neglect, and dependency cases would improve the administration of justice in those cases in the county or district and that sufficient resources exist for the designation of one or more hearing officers. The determination may be made as to an entire district court district or as to one or more counties within a multicounty district. The Director of the Administrative Office of the Courts shall notify the chief district court judge and the clerk or clerks of superior court in affected counties in writing that the designation of a juvenile

1 court hearing officer or officers is authorized and of the effective date of the
2 authorization.

3 (b) Hearing Officer to Be Magistrate or Clerk. – The determination of whether a
4 juvenile court hearing officer or officers for a county shall be one or more clerks or one
5 or more magistrates shall be made by agreement of the chief district judge, the Director
6 of the Administrative Office of the Courts, and the clerk of superior court in an affected
7 county. If agreement has not been reached within 15 days after the Director of the
8 Administrative Office of the Courts gives the written notice required by subsection (a) of
9 this section, the Director of the Administrative Office of the Courts shall make the
10 decision.

11 (c) Designation of Hearing Officer. – If a hearing officer for a county is to be a
12 magistrate, the chief district judge, the clerk of superior court, and the Director of the
13 Administrative Office of the Courts shall ensure any designee's qualification for the
14 position. If a hearing officer for a county is to be the clerk or an assistant clerk, the clerk
15 of superior court in the county shall designate the person to serve as hearing officer, and
16 the chief district judge, the clerk of superior court, and the Director of the Administrative
17 Office of the Courts shall ensure that person's qualification for the position.

18 **"§ 7A-746. Authority and duties of a juvenile court hearing officer.**

19 A juvenile court hearing officer who is qualified properly and designated under this
20 Article has the following authority and responsibilities in relation to nonsecure custody
21 hearings pursuant to G.S. 7A-577 in abuse, neglect, and dependency cases:

- 22 (1) To conduct hearings and to ensure that the parties' due process rights are
23 protected;
- 24 (2) To take testimony and establish a record;
- 25 (3) To evaluate evidence and make decisions regarding the need for and the
26 legal basis for continued nonsecure custody;
- 27 (4) To accept stipulations and approve consent orders relating to nonsecure
28 custody;
- 29 (5) Except as provided otherwise in this Article, to enter orders pursuant to
30 G.S. 7A-577 with the same scope and effect as orders entered by a
31 judge;
- 32 (6) To enter temporary child support orders in the context of a hearing
33 pursuant to G.S. 7A-577; and
- 34 (7) To subpoena witnesses and documents.

35 In addition, a juvenile court hearing officer shall have any other authority and
36 responsibilities assigned to the hearing officer by properly adopted court rules or by rules
37 issued by the Administrative Office of the Courts; provided, only a judge may conduct
38 adjudication, disposition, and review hearings in abuse, neglect, and dependency cases.

39 **"§ 7A-747. Procedures in districts or counties with hearing officers.**

40 (a) Scheduling of Cases. – The procedures of this section shall apply to all abuse,
41 neglect, and dependency cases in any district court district or county in which one or
42 more juvenile court hearing officers have been designated. All hearings pursuant to G.S.
43 7A-577 shall be scheduled for hearing before a juvenile court hearing officer. The first

1 such hearing shall be scheduled for the first business day after the juvenile is taken into
2 custody.

3 (b) Place of Hearing. – A hearing before a juvenile court hearing officer is not
4 required to take place in a courtroom, but shall be conducted in an appropriate judicial
5 setting.

6 (c) Hearing Procedures. – Except as provided otherwise in this Article, the hearing
7 officer shall receive evidence and testimony, determine the need for and the legal basis
8 for continued nonsecure custody, and enter an appropriate order based on the evidence
9 and the juvenile laws of the State. All parties shall be provided with a copy of the order.

10 (d) Record of Proceeding. – The record of a proceeding before a juvenile court
11 hearing officer shall consist of the pleadings filed, documentation of proper service or
12 notice or waiver, and a copy of the hearing officer's order. No verbatim recording or
13 transcript shall be required or provided at State expense.

14 (e) Transfer to District Court Judge. – Upon the hearing officer's own motion or
15 upon motion of any party, the hearing officer may transfer a case for hearing before a
16 district court judge:

17 (1) When the case involves a conflict of interest for the hearing officer or
18 unusually complex or difficult issues, or

19 (2) For any other good cause.

20 The chief district court judge shall establish a procedure for transferred cases to be given
21 priority for hearing before a district court judge. The nonsecure custody order shall
22 remain in effect pending the hearing before a judge.

23 **"§ 7A-748. Enforcement authority of juvenile court hearing officer; contempt.**

24 When a case is before a juvenile court hearing officer, the hearing officer has the
25 same authority that a district court judge would have, except in matters of contempt.
26 Orders that commit a person to jail for civil or criminal contempt for failure to comply
27 with a court order may be entered only by a judge. When it appears to a hearing officer
28 that there is probable cause for finding a person in contempt and that no other
29 enforcement remedy is available or would be effective, the hearing officer shall enter an
30 order finding probable cause and referring the case for hearing before a district court
31 judge. If proof of compliance is made to the hearing officer within a time specified in the
32 order, the hearing officer may cancel the referral of the contempt matter to the judge.
33 Except as specifically limited by this section, a clerk or magistrate acting as a juvenile
34 court hearing officer retains all of the contempt powers the clerk or magistrate has
35 otherwise by virtue of being a clerk or magistrate.

36 **"§ 7A-749. Qualifications of juvenile court hearing officer.**

37 (a) Qualifications. – A clerk or assistant clerk of superior court or a magistrate, to
38 be designated and to serve as a juvenile court hearing officer, shall satisfy each of the
39 following qualifications:

40 (1) Be an attorney licensed to practice law in the State of North Carolina;

41 (2) Be qualified by training, experience, and temperament to be effective in
42 relating to parties in abuse, neglect, and dependency cases and in
43 conducting hearings fairly and efficiently;

- 1 (3) Be certified by the Administrative Office of the Courts as having
2 completed the training required by subsection (b) of this section; and
3 (4) Have five years of experience as clerk or assistant clerk of superior
4 court or magistrate or five years of experience working in the field of
5 juvenile law or a related field.

6 (b) Training Required. – Before a clerk or assistant clerk or a magistrate may
7 conduct hearings as a juvenile court hearing officer the clerk or assistant clerk or
8 magistrate shall complete satisfactorily a course of instruction in the conduct of juvenile
9 hearings established by the Administrative Office of the Courts. The Administrative
10 Office of the Courts shall establish a course in the conduct of juvenile hearings, may
11 contract with qualified educational organizations to conduct the course of instruction, and
12 shall reimburse the clerks or magistrates attending for travel and subsistence incurred in
13 taking the training required under this subsection."

14 Section 2. Article 16 of Chapter 7A of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 7A-179. Magistrate as juvenile court hearing officer.**

17 A magistrate who meets the qualifications of G.S. 7A-749 and is designated pursuant
18 to Article 59 of Chapter 7A of the General Statutes to serve as a juvenile court hearing
19 officer, may serve in that capacity and has the authority and responsibility assigned to
20 juvenile court hearing officers by Chapter 7A of the General Statutes."

21 Section 3. Article 17 of Chapter 7A of the General Statutes is amended by
22 adding a new section to read:

23 **"§ 7A-184. Clerk or assistant clerk as juvenile court hearing officer.**

24 A clerk or assistant clerk of superior court who meets the qualifications of G.S. 7A-
25 749 and is designated pursuant to Article 59 of Chapter 7A of the General Statutes to
26 serve as a juvenile court hearing officer, may serve in that capacity and has the authority
27 and responsibility assigned to juvenile court hearing officers by Chapter 7A of the
28 General Statutes."

29 Section 4. G.S. 7A-517 is amended by adding a new subdivision to read:

30 "(15b) 'Hearing officer' or 'juvenile court hearing officer' means a clerk or
31 assistant clerk of superior court or a magistrate who has been designated
32 pursuant to Article 59 of this Chapter to conduct hearings and enter
33 orders pursuant to G.S. 7A-577 in abuse, neglect, and dependency
34 cases."

35 Section 5. This act becomes effective October 1, 1997.