

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 375*

Short Title: DSS Changes 1-AB.

(Public)

Sponsors: Representatives Culpepper; and Alexander.

Referred to: Children, Youth and Families.

March 1, 2001

A BILL TO BE ENTITLED
AN ACT TO MAKE CLARIFYING AND OTHER CHANGES TO THE GENERAL
STATUTES PERTAINING TO CHILD WELFARE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-406 reads as rewritten:

"§ 7B-406. Issuance of summons.

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under disability even though the parent is a minor."

SECTION 2. G.S. 7B-602 reads as rewritten:

§ 7B-602. (V2)(Effective July 1, 2001) Parent's right to ~~counsel~~counsel; guardian ad litem.

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right.

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

- (1) Where it is alleged that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101 in that the parent is incapable as the result of substance abuse, mental retardation, mental illness, organic brain syndrome, of any other similar cause or condition of providing for the proper care and supervision of the juvenile; or
- (2) Where the parent is under the age of 18 years."

1 **SECTION 3.** G.S. 7B-904 reads as rewritten:

2 "**§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or**
3 **dependent.**

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

7 (b) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile~~
8 ~~who has been adjudicated abused, neglected, or dependent~~, if the court finds that it is in
9 the best interests of the juvenile for the parent, guardian, custodian, stepparent, adult
10 member of the juvenile's household, or adult relative entrusted with the juvenile's care
11 to be directly involved in the juvenile's treatment, the court may order the parent,
12 guardian, custodian, stepparent, adult member of the juvenile's household, or adult
13 relative entrusted with the juvenile's care to participate in medical, psychiatric,
14 psychological, or other treatment of the juvenile. The cost of the treatment shall be paid
15 pursuant to G.S. 7B-903.

16 (c) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile~~
17 ~~who has been adjudicated abused, neglected, or dependent~~, the court may determine
18 whether the best interests of the juvenile require that the parent, guardian, custodian,
19 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
20 juvenile's care undergo psychiatric, psychological, or other treatment or counseling
21 directed toward remediating or remedying behaviors or conditions that led to or
22 contributed to the juvenile's adjudication or to the court's decision to remove custody of
23 the juvenile from the parent, guardian, custodian, stepparent, adult member of the
24 juvenile's household, or adult relative entrusted with the juvenile's care. If the court
25 finds that the best interests of the juvenile require the parent, guardian, custodian,
26 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
27 juvenile's care undergo treatment, it may order that individual to comply with a plan of
28 treatment approved by the court or condition legal custody or physical placement of the
29 juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's
30 household, or adult relative entrusted with the juvenile's care upon that individual's
31 compliance with the plan of treatment. The court may order the parent, guardian,
32 custodian, stepparent, adult member of the juvenile's household, or adult relative
33 entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this
34 subsection. In cases in which the court has conditioned legal custody or physical
35 placement of the juvenile with the parent, guardian, custodian, stepparent, adult member
36 of the juvenile's household, or adult relative entrusted with the juvenile's care upon
37 compliance with a plan of treatment, the court may charge the cost of the treatment to
38 the county of the juvenile's residence if the court finds the parent, guardian, custodian,
39 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
40 juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court
41 finds the parent, guardian, custodian, stepparent, adult member of the juvenile's
42 household, or adult relative entrusted with the juvenile's care is unable to pay the cost of
43 the treatment ordered pursuant to this subsection, the court may order that individual to

1 receive treatment currently available from the area mental health program that serves
2 the parent's catchment area.

3 ~~Whenever~~ At the dispositional hearing or a subsequent hearing, when legal
4 custody of a juvenile is vested in someone other than the juvenile's parent, after due
5 notice to the parent and after a hearing, if the court finds that the parent is able to do so,
6 the court may order that the parent pay a reasonable sum that will cover, in whole or in
7 part, the support of the juvenile after the order is entered. If the court requires the
8 payment of child support, the amount of the payments shall be determined as provided
9 in G.S. 50-13.4(c). If the court places a juvenile in the custody of a county department
10 of social services and if the court finds that the parent is unable to pay the cost of the
11 support required by the juvenile, the cost shall be paid by the county department of
12 social services in whose custody the juvenile is placed, provided the juvenile is not
13 receiving care in an institution owned or operated by the State or federal government or
14 any subdivision thereof.

15 (d1) At the dispositional hearing or a subsequent hearing, the court may order the
16 parent, guardian, custodian, stepparent, adult member of the juvenile's household, or
17 adult relative entrusted with the juvenile's care to do any of the following:

18 (1) Attend parental responsibility classes if those classes are available in
19 the judicial district in which the parent, guardian, custodian,
20 stepparent, adult member of the juvenile's household, or adult relative
21 entrusted with the juvenile's care resides.

22 (2) Provide, to the extent that person is able to do so, transportation for the
23 juvenile to keep appointments for medical, psychiatric, psychological,
24 or other treatment ordered by the court if the juvenile remains in or is
25 returned to the home.

26 (3) Take appropriate steps to remedy conditions in the home that led to or
27 contributed to the juvenile's adjudication or to the court's decision to
28 remove custody of the juvenile from the parent, guardian, custodian,
29 stepparent, adult member of the juvenile's household, or adult relative
30 entrusted with the juvenile's care.

31 ~~(e) Failure of a parent who is personally served to participate in or comply with~~
32 ~~this section may result in a proceeding for civil contempt. Upon motion of a party or~~
33 ~~upon the court's own motion, the court may issue an order directing the parent,~~
34 ~~guardian, custodian, stepparent, adult member of the juvenile's household, or adult~~
35 ~~relative entrusted with the juvenile's care to appear and show cause why the parent,~~
36 ~~guardian, custodian, stepparent, adult member of the juvenile's household, or adult~~
37 ~~relative entrusted with the juvenile's care should not be found or held in civil or criminal~~
38 ~~contempt for willfully failing to comply with an order of the court. Chapter 5A of the~~
39 ~~General Statutes shall govern contempt proceedings initiated pursuant to this section."~~

40 **SECTION 4.** G.S. 7B-905(c) reads as rewritten:

41 "(c) Any dispositional order shall comply with the requirements of G.S. 7B-507.
42 Any dispositional order under which a juvenile is removed from the custody of a parent,
43 guardian, custodian, or caretaker, or under which the juvenile's placement is continued
44 outside the home, shall provide for appropriate visitation as may be in the best interests

1 of the juvenile and consistent with the juvenile's health and safety. If the juvenile is
2 placed in the custody or placement responsibility of a county department of social
3 services, the court may order the director to arrange, facilitate, and supervise a visitation
4 plan expressly approved by the court. If the director subsequently makes a good faith
5 determination that the visitation plan may not be in the best interests of the juvenile or
6 consistent with the juvenile's health and safety, the director may temporarily suspend all
7 or part of the visitation plan. The director shall not be subjected to any motion to show
8 cause for this suspension, but shall expeditiously file a motion for review."

9 **SECTION 5.** G.S. 7B-907(d) reads as rewritten:

10 "(d) In the case of a juvenile who is in the custody or placement responsibility of a
11 county department of social services, and has been in placement outside the home for ~~15~~
12 12 of the most recent 22 months; or a court of competent jurisdiction has determined
13 that the parent has abandoned the child; or has committed murder or voluntary
14 manslaughter of another child of the parent; or has aided, abetted, attempted, conspired,
15 or solicited to commit murder or voluntary manslaughter of the child or another child of
16 the parent, ~~the court shall order~~ the director of the department of social services ~~to~~ shall
17 initiate a proceeding to terminate the parental rights of the parent unless the court finds:

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

26 **SECTION 6.** G.S. 7B-1111(2) reads as rewritten:

27 "(2) The parent has willfully left the juvenile in foster care or placement
28 outside the home for more than 12 of the most recent 22 months
29 without showing to the satisfaction of the court that reasonable
30 progress under the circumstances has been made ~~within 12 months~~ in
31 correcting those conditions which led to the removal of the juvenile.
32 Provided, however, that no parental rights shall be terminated for the
33 sole reason that the parents are unable to care for the juvenile on
34 account of their poverty."

35 **SECTION 7.** G.S. 7B-910 reads as rewritten:

36 "**§ 7B-910. Review of voluntary foster care placements.**

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

- 41 (1) The voluntariness of the placement;
- 42 (2) The appropriateness of the placement;
- 43 (3) Whether the placement is in the best interests of the juvenile; and

1 (4) The services that have been or should be provided to the parents,
2 guardian, foster parents, and juvenile, as the case may be, either (i) to
3 improve the placement or (ii) to eliminate the need for the placement.

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

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

17 (d) The clerk shall give at least 15 days' advance written notice of the initial and
18 subsequent review hearings to the parents or guardian of the juvenile, to the juvenile if
19 12 or more years of age, to the director of social services, and to any other persons
20 whom the court may specify. "

21 **SECTION 8.** G.S. 7B-1109(a) reads as rewritten:

22 "(a) The hearing on the termination of parental rights shall be conducted by the
23 court sitting without a jury and shall be held in the district at such time and place as the
24 chief district court judge shall designate, but no later than 90 days from the filing of the
25 petition or motion unless the judge pursuant to subsection (d) orders that it be held at a
26 later time. Reporting of the hearing shall be as provided by G.S. 7A-198 for reporting
27 civil trials."

28 **SECTION 9.** G.S. 7B-2503(1) reads as rewritten:

29 "(1) In the case of any juvenile who needs more adequate care or
30 supervision or who needs placement, the judge may:

- 31 a. Require that the juvenile be supervised in the juvenile's own
32 home by a department of social services in the juvenile's county
33 of residence, a court counselor, or other personnel as may be
34 available to the court, subject to conditions applicable to the
35 parent, guardian, or custodian or the juvenile as the judge may
36 specify; or
37 b. Place the juvenile in the custody of a parent, guardian,
38 custodian, relative, private agency offering placement services,
39 or some other suitable person; or
40 c. Place the juvenile in the custody of a department of social
41 services in the county of the juvenile's residence, or in the case
42 of a juvenile who has legal residence outside the State, in the
43 physical custody of a department of social services in the
44 county where the juvenile is found so that agency may return

1 the juvenile to the responsible authorities in the juvenile's home
2 state. An order placing a juvenile in the custody or placement
3 responsibility of a county department of social services shall
4 contain a finding that the juvenile's continuation in the
5 juvenile's own home would be contrary to the juvenile's best
6 interest. This placement shall be reviewed in accordance with
7 G.S. 7B-906. The director may, unless otherwise ordered by the
8 judge, arrange for, provide, or consent to, needed routine or
9 emergency medical or surgical care or treatment. In the case
10 where the parent is unknown, unavailable, or unable to act on
11 behalf of the juvenile or juveniles, the director may, unless
12 otherwise ordered by the judge, arrange for, provide or consent
13 to any psychiatric, psychological, educational, or other remedial
14 evaluations or treatment for the juvenile placed by a judge or
15 the judge's designee in the custody or physical custody of a
16 county department of social services under the authority of this
17 or any other Chapter of the General Statutes. Prior to exercising
18 this authority, the director shall make reasonable efforts to
19 obtain consent from a parent, guardian, or custodian of the
20 affected juvenile. If the director cannot obtain consent, the
21 director shall promptly notify the parent, guardian, or custodian
22 that care or treatment has been provided and shall give the
23 parent, guardian, or custodian frequent status reports on the
24 circumstances of the juvenile. Upon request of a parent,
25 guardian, or custodian of the affected juvenile, the results or
26 records of the aforementioned evaluations, findings, or
27 treatment shall be made available to the parent, guardian, or
28 custodian by the director unless prohibited by G.S. 122C-
29 53(d)."

30 **SECTION 10.** G.S. 7B-2506(1) reads as rewritten:

- 31 "(1) In the case of any juvenile who needs more adequate care or
32 supervision or who needs placement, the judge may:
- 33 a. Require that a juvenile be supervised in the juvenile's own
34 home by the department of social services in the juvenile's
35 county, a court counselor, or other personnel as may be
36 available to the court, subject to conditions applicable to the
37 parent, guardian, or custodian or the juvenile as the judge may
38 specify; or
 - 39 b. Place the juvenile in the custody of a parent, guardian,
40 custodian, relative, private agency offering placement services,
41 or some other suitable person; or
 - 42 c. Place the juvenile in the custody of the department of social
43 services in the county of his residence, or in the case of a
44 juvenile who has legal residence outside the State, in the

1 physical custody of a department of social services in the
2 county where the juvenile is found so that agency may return
3 the juvenile to the responsible authorities in the juvenile's home
4 state. An order placing a juvenile in the custody or placement
5 responsibility of a county department of social services shall
6 contain a finding that the juvenile's continuation in the
7 juvenile's own home would be contrary to the juvenile's best
8 interest. This placement shall be reviewed in accordance with
9 G.S. 7B-906. The director may, unless otherwise ordered by the
10 judge, arrange for, provide, or consent to, needed routine or
11 emergency medical or surgical care or treatment. In the case
12 where the parent is unknown, unavailable, or unable to act on
13 behalf of the juvenile or juveniles, the director may, unless
14 otherwise ordered by the judge, arrange for, provide, or consent
15 to any psychiatric, psychological, educational, or other remedial
16 evaluations or treatment for the juvenile placed by a judge or
17 his designee in the custody or physical custody of a county
18 department of social services under the authority of this or any
19 other Chapter of the General Statutes. Prior to exercising this
20 authority, the director shall make reasonable efforts to obtain
21 consent from a parent, guardian, or custodian of the affected
22 juvenile. If the director cannot obtain consent, the director shall
23 promptly notify the parent, guardian, or custodian that care or
24 treatment has been provided and shall give the parent, guardian,
25 or custodian frequent status reports on the circumstances of the
26 juvenile. Upon request of a parent, guardian, or custodian of the
27 affected juvenile, the results or records of the aforementioned
28 evaluations, findings, or treatment shall be made available to
29 the parent, guardian, or custodian by the director unless
30 prohibited by G.S. 122C-53(d)."

31 **SECTION 11.** G.S. 7B-2901(a) reads as rewritten:

32 "(a) The clerk shall maintain a complete record of all juvenile cases filed in the
33 clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from
34 public inspection and, except as provided in this subsection, may be examined only by
35 order of the court. The record shall include the summons, petition, custody order, court
36 order, written motions, the electronic or mechanical recording of the hearing, and other
37 papers filed in the proceeding. The recording of the hearing shall be reduced to a written
38 transcript only when notice of appeal has been timely given. After the time for appeal
39 has expired with no appeal having been filed, the recording of the hearing may be
40 erased or destroyed upon the written order of the court.

41 The following persons may examine the juvenile's record maintained pursuant to
42 this subsection and obtain copies of written parts of the record without an order of the
43 court:

- 44 (1) The juvenile;

- 1 (2) The guardian ad litem;
2 (3) The county department of social services; and
3 (4) The juvenile's parent, guardian, or custodian, or the attorney for the
4 juvenile or the juvenile's parent, guardian or custodian."

5 **SECTION 12.** G.S. 48-9-102(d) reads as rewritten:

6 "~~(d) Records must be sent by the clerk of superior court to the Division in the~~
7 ~~following order:~~

- 8 (1) ~~Within 10 days after the petition is filed with the clerk of the superior~~
9 ~~court, a copy of the petition giving the date of the filing of the original~~
10 ~~petition and the original of each consent and relinquishment must be~~
11 ~~filed by the clerk with the Division.~~
12 (2) ~~Within 10 days after the decree of adoption is entered, the clerk must~~
13 ~~file with the Division the additional documents filed pursuant to G.S.~~
14 ~~48-2-305, any report to the court, any additional documents submitted~~
15 ~~and orders entered, and a copy of the final order.~~

16 (d) All records filed in connection with an adoption, including a copy of the petition
17 giving the date of the filing of the original petition, the original of each consent and
18 relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the
19 court, any additional documents submitted and orders entered and a copy of the final
20 decree, shall be sent by the clerk of superior court to the Division within 10 days after
21 the decree of adoption is entered or 10 days following the final disposition of an appeal
22 pursuant to G.S. 48-2-607(b). The original petition and final decree shall be retained by
23 the clerk."

24 **SECTION 13.** G.S. 48-2-401(d) reads as rewritten:

25 "(d) In the adoption of an adult, the petitioner shall also serve notice of the filing
26 on any adult children of the prospective adoptive parent and any ~~parent, spouse, spouse~~
27 or adult child of the adoptee who are listed in the petition to adopt."

28 **SECTION 14.** G.S. 130A-108 reads as rewritten:

29 "**§ 130A-108. Certificate of identification for individual of foreign birth.**

30 (a) In the case of an adopted individual born in a foreign country and residing in
31 this State at the time of application, the State Registrar shall, upon the presentation of a
32 certified copy of the original birth certificate from the country of birth and a certified
33 copy of the final order of adoption signed by the clerk of court or other appropriate
34 official, prepare a certificate of identification for the individual. The certificate shall
35 contain the same information required by G.S. 48-9-107(a) for individuals adopted in
36 this State, except that the country of birth shall be specified in lieu of the state of birth.

37 (b) In the case of an adopted individual born in a foreign country and readopted
38 in this State, the State Registrar shall, upon receipt of a report of that adoption from the
39 Division of Social Services pursuant to G.S.48-9-102(f), prepare a certificate of
40 identification for that individual. The certificate shall contain the same information
41 required by G.S.48-9-107(a) for individuals adopted in this State, except the country of
42 birth shall be specified in lieu of the state of birth."

43 **SECTION 15.** G.S. 48-3-206 reads as rewritten:

44 "**§ 48-3-206. Affidavit of parentage.**

1 (a) To assist the court in determining that a direct placement was valid and all
2 necessary consents have been obtained, the parent or guardian who placed the minor
3 shall execute an affidavit setting out names, last known addresses, and marital status of
4 the minor's parents or possible parents.

5 (b) In an agency placement, the agency shall obtain from at least one individual
6 who relinquishes a minor to the agency an affidavit setting out the information required
7 in subsection (a) of this section. This affidavit is not necessary when the agency
8 acquires legal and physical custody of a minor for purposes of adoptive placement by a
9 court order terminating the parental rights of a parent or guardian."

10 **SECTION 16.** G.S. 48-3-704 reads as rewritten:

11 "**§ 48-3-704. Content of relinquishment; optional provisions.**

12 In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment
13 may also state that the relinquishment may be revoked upon notice by the agency that
14 an adoption by a specific prospective adoptive parent, named or described in the
15 relinquishment is not completed. In this event the parent's time to revoke a
16 relinquishment is 10 days, inclusive of weekends and holidays, from the date the parent
17 receives such notice from the agency. The revocation shall be in writing and delivered
18 in a manner specified in G.S. 48-3-706(a) for revocation of relinquishments. An agency,
19 which after the exercise of due diligence cannot personally locate the parent entitled to
20 this notice, may deposit a copy of the notice in the United States mail, return receipt
21 requested, addressed to the address of the parent given in the relinquishment, and the
22 date of receipt by the parent is deemed to be the date of delivery or last attempted
23 delivery. If a parent does not revoke the relinquishment in the time and manner
24 provided in this section, the relinquishment is deemed a general relinquishment to the
25 agency and the agency may place the child for adoption with a prospective adoptive
26 parent selected by the agency."

27 **SECTION 17.** G.S. 7B-506(d) reads as rewritten:

28 "(d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and
29 should continue in custody, the court shall issue an order to that effect. The order shall
30 be in writing with appropriate findings of ~~fact.~~ fact and signed and entered within 30
31 days of the completion of the hearing. The findings of fact shall include the evidence
32 relied upon in reaching the decision and the purposes which continued custody is to
33 achieve."

34 **SECTION 18.** G.S. 807 reads as rewritten:

35 "**§ 7B-807. Adjudication.**

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

41 (b) The adjudicatory order shall be in writing and shall contain appropriate
42 findings of fact and conclusions of law. The order shall be reduced to writing, signed,
43 and entered no later than 30 days following the completion of the adjudicatory hearing."

44 **SECTION 19.** G.S. 905(a) reads as rewritten:

1 "(a) The dispositional order shall be in ~~writing~~ writing, signed, and entered no
2 later than 30 days from the completion of the hearing, and shall contain appropriate
3 findings of fact and conclusions of law. The court shall state with particularity, both
4 orally and in the written order of disposition, the precise terms of the disposition
5 including the kind, duration, and the person who is responsible for carrying out the
6 disposition and the person or agency in whom custody is vested."

7 **SECTION 20.** G.S. 906(d) reads as rewritten:

8 "(d) The court, after making findings of fact, may appoint a guardian of the person
9 for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by
10 G.S. 7B-903, including the authority to place the juvenile in the custody of either parent
11 or any relative found by the court to be suitable and found by the court to be in the best
12 interests of the juvenile. The court may enter an order continuing the placement under
13 review or providing for a different placement as is deemed to be in the best interests of
14 the juvenile. The order must be reduced to writing, signed, and entered within 30 days
15 of the completion of the hearing. If at any time custody is restored to a parent, guardian,
16 custodian, or caretaker the court shall be relieved of the duty to conduct periodic
17 judicial reviews of the placement."

18 **SECTION 21.** G.S. 7B-907(c) reads as rewritten:

19 "(c) At the conclusion of the hearing, the judge shall make specific findings as to
20 the best plan of care to achieve a safe, permanent home for the juvenile within a
21 reasonable period of time. The judge may appoint a guardian of the person for the
22 juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903
23 including the authority to place the child in the custody of either parent or any relative
24 found by the court to be suitable and found by the court to be in the best interest of the
25 juvenile. If the juvenile is not returned home, the court shall enter an order consistent
26 with its findings that directs the department of social services to make reasonable efforts
27 to place the juvenile in a timely manner in accordance with the permanent plan, to
28 complete whatever steps are necessary to finalize the permanent placement of the
29 juvenile, and to document such steps in the juvenile's case plan. Any order shall be
30 reduced to writing, signed, and entered no later than 30 days following the completion
31 of the hearing. If at any time custody is restored to a parent, or findings are made in
32 accordance with G.S. 7B-906(b), the court shall be relieved of the duty to conduct
33 periodic judicial reviews of the placement.

34 If the court continues the juvenile's placement in the custody or placement
35 responsibility of a county department of social services, the provisions of G.S. 7B-507
36 shall apply to any order entered under this section."

37 **SECTION 22.** G.S. 7B-910(c) reads as rewritten:

38 "(c) An initial review hearing shall be held not more than ~~180~~ 90 days after the
39 juvenile's placement and shall be calendared by the clerk for hearing within such period
40 upon timely request by the director of social services. Additional review hearings shall
41 be held at least every 90 days thereafter and at such times as the court shall deem
42 appropriate and shall direct, either upon its own motion or upon written request of the
43 parents, guardian, foster parents, or director of social services. A juvenile placed under a
44 voluntary agreement between the juvenile's parent or guardian and the county

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

3 **SECTION 23.** G.S. 7B-1109(e) reads as rewritten:

4 "(e) The court shall take evidence, find the facts, and shall adjudicate the
5 existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which
6 authorize the termination of parental rights of the respondent. The adjudicatory order
7 shall be reduced to writing, signed, and entered no later than 30 days following the
8 completion of the termination of parental rights hearing."

9 **SECTION 24.** G.S. 7B-1110(a) reads as rewritten:

10 "(a) Should the court determine that any one or more of the conditions authorizing
11 a termination of the parental rights of a parent exist, the court shall issue an order
12 terminating the parental rights of such parent with respect to the juvenile unless the
13 court shall further determine that the best interests of the juvenile require that the
14 parental rights of the parent not be terminated. Any order shall be reduced to writing,
15 signed, and entered no later than 30 days following the completion of the termination of
16 parental rights hearing."

17 **SECTION 25.** G.S. 7B-506(h) reads as rewritten:

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

19 (1) Inquire as to the identity and location of any missing ~~parent~~ parent and
20 as to whether paternity is at issue. The court shall include findings as
21 to the efforts undertaken to locate the missing parent and to serve that
22 ~~parent~~ parent, as well as efforts undertaken to establish paternity when
23 paternity is an issue. The order may provide for specific efforts aimed
24 at determining the identity and location of any missing ~~parent~~ parent,
25 as well as specific efforts aimed at establishing paternity.

26 (2) Inquire as to whether a relative of the juvenile is willing and able to
27 provide proper care and supervision of the juvenile in a safe home. If
28 the court finds that the relative is willing and able to provide proper
29 care and supervision in a safe home, then the court shall order
30 temporary placement of the juvenile with the relative unless the court
31 finds that placement with the relative would be contrary to the best
32 interests of the juvenile. In placing a juvenile in nonsecure custody
33 under this section, the court shall consider the Indian Child Welfare
34 Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and
35 the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub.
36 L. No. 103-382, 108 Stat. 4056, as amended, as they may apply.
37 Placement of a juvenile with a relative outside of this State must be in
38 accordance with the Interstate Compact on the Placement of Children
39 set forth in Article 38 of this Chapter; and

40 (3) Inquire as to whether there are other juveniles remaining in the home
41 from which the juvenile was removed and, if there are, inquire as to
42 the specific findings of the investigation conducted under G.S. 7B-302
43 and any actions taken or services provided by the director for the
44 protection of the other juveniles."

1 **SECTION 26.** G.S. 1111(a) reads as rewritten:

2 "**§ 7B-1111. Grounds for terminating parental rights.**

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

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

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

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

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

30 (5) The father of a juvenile born out of wedlock has not, prior to the filing
31 of a petition or motion to terminate parental rights:

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

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

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

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

- 1 (6) That the parent is incapable of providing for the proper care and
2 supervision of the juvenile, such that the juvenile is a dependent
3 juvenile within the meaning of G.S. 7B-101, and that there is a
4 reasonable probability that such incapability will continue for the
5 foreseeable future. Incapability under this subdivision may be the
6 result of substance abuse, mental retardation, mental illness, organic
7 brain syndrome, or any other similar cause or condition.
- 8 (7) The parent has willfully abandoned the juvenile for at least six
9 consecutive months immediately preceding the filing of the petition or
10 motion.
- 11 (8) The parent has committed murder or voluntary manslaughter of
12 another child of the parent or other child residing in the home; has
13 aided, abetted, attempted, conspired, or solicited to commit murder or
14 voluntary manslaughter of the child, another child of the parent, or
15 other child residing in the home; or has committed a felony assault that
16 results in serious bodily injury to the child, another child of the parent,
17 or other child residing in the home. The petitioner has the burden of
18 proving any of these offenses in the termination of parental rights
19 hearing by (i) proving the elements of the offense by clear, cogent,
20 and convincing evidence, or (ii) offering proof that a court of
21 competent jurisdiction has convicted the parent of the offense, whether
22 or not the conviction was by way of a jury verdict or any kind of plea.
- 23 (9) The parental rights of the parent with respect to another child of the
24 parent have been terminated involuntarily by a court of competent
25 jurisdiction and the parent lacks the ability or willingness to establish a
26 safe home."

27 **SECTION 27.** G.S. 7B-1001 reads as rewritten:

28 **"§ 7B-1001. Right to appeal.**

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

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

41 **SECTION 28.** G.S. 7B-1113 reads as rewritten:

42 **"§ 7B-1113. Appeals; modification of order after affirmation.**

43 Any ~~juvenile~~, juvenile acting through the juvenile's guardian ad litem if one is
44 appointed parent, guardian, custodian, or agency who is a party to a proceeding under

1 this Article may appeal from an adjudication or any order of disposition to the Court of
2 Appeals, provided that notice of appeal is given ~~in open court at the time of the hearing~~
3 ~~or~~ in writing within 10 days after entry of the order. Entry of an order shall be treated in
4 the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina
5 Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a
6 temporary order affecting the custody or placement of the juvenile as the court finds to
7 be in the best interests of the juvenile or the best interests of the State. Upon the
8 affirmation of the order of adjudication or disposition of the court in a juvenile case by
9 the Court of Appeals, or by the Supreme Court in the event of an appeal, the court shall
10 have authority to modify or alter its original order of adjudication or disposition as the
11 court finds to be in the best interests of the juvenile to reflect any adjustment made by
12 the juvenile or change in circumstances during the period of time the case on appeal was
13 pending, provided that if the modifying order be entered ex parte, the court shall give
14 notice to interested parties to show cause, if any there be, within 10 days thereafter, as
15 to why the modifying order should be vacated or altered."

16 **SECTION 29.** G.S. 7B-1003 reads as rewritten:

17 **"§ 7B-1003. Disposition pending appeal.**

18 Pending disposition of an appeal, the return of the juvenile to the custody of the
19 parent or guardian of the juvenile, with or without conditions, ~~should~~ may ~~issue in every~~
20 ~~ease~~ unless the court orders otherwise. When the court has found that a juvenile has
21 suffered physical abuse and that the individual responsible for the abuse has a history of
22 violent behavior, the court shall consider the opinion of the mental health professional
23 who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the
24 custody of that individual. For compelling reasons which must be stated in writing, the
25 court may enter a temporary order affecting the custody or placement of the juvenile as
26 the court finds to be in the best interests of the juvenile or the State. The provisions of
27 subsections (b), (c), and (d) of G.S. 7B-905 shall apply to any order entered under this
28 section which provides for the placement or continued placement of a juvenile in foster
29 care."

30 **SECTION 30.** G.S. 7B-1106(a) reads as rewritten:

31 "(a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court
32 shall cause a summons to be issued. The summons shall be directed to the following
33 persons or agency, not otherwise a party petitioner, who shall be named as respondents:

- 34 (1) The parents of the juvenile;
- 35 (2) Any person who has been judicially appointed as guardian of the
36 person of the juvenile;
- 37 (3) The custodian of the juvenile appointed by a court of competent
38 jurisdiction;
- 39 (4) Any county department of social services or licensed child-placing
40 agency to whom a juvenile has been released by one parent pursuant to
41 Part 7 of Article 3 of Chapter 48 of the General Statutes or any county
42 department of social services to whom placement responsibility for the
43 child has been given by a court of competent jurisdiction; and

1 (5) The juvenile, ~~if the juvenile is 12 years of age or older at the time the~~
2 ~~petition is filed.~~ individually and through the juvenile's guardian ad
3 litem if one has been appointed.

4 Provided, no summons need be directed to or served upon any parent who, under
5 Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county
6 department of social services or licensed child-placing agency nor to any parent who
7 has consented to the adoption of the juvenile by the petitioner. The summons shall
8 notify the respondents to file a written answer within 30 days after service of the
9 summons and petition. Service of the summons shall be completed as provided under
10 the procedures established by G.S. 1A-1, Rule 4(j); but the parent of the juvenile shall
11 not be deemed to be under disability even though the parent is a minor."

12 **SECTION 31.** This act becomes effective January 1, 2002.