

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 918
Senate Health Care Committee Substitute Adopted 8/21/19

Short Title: Amend Abuse Laws/Expedite Permanency. (Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ABUSE, NEGLECT, AND DEPENDENCY LAWS TO
3 ENSURE THE SAFETY OF CHILDREN IN OUT-OF-HOME PLACEMENTS,
4 EXPEDITE THE GOAL OF PERMANENCY FOR CHILDREN UNDER THREE YEARS
5 OF AGE WHO HAVE BEEN REMOVED FROM THE HOME, CREATE A
6 PRESUMPTION THAT FOSTER PARENTS WITH WHOM A CHILD UNDER THREE
7 YEARS OF AGE HAS LIVED CONTINUOUSLY FOR NINE MONTHS ARE DEEMED
8 NONRELATIVE KIN, AND CREATE AN AGGRAVATING CIRCUMSTANCE FOR
9 THE EXPOSURE TO NONMEDICAL, CONTROLLED SUBSTANCES IN UTERO.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 7B-100 is amended by adding a new subdivision to read:

12 "**§ 7B-100. Purpose.**

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

15 ...

16 (6) To provide juveniles under 3 years of age who are removed from custody of
17 their homes with prospective permanent placement within one year from the
18 date of the initial order removing custody."

19 **SECTION 2.** G.S. 7B-101 reads as rewritten:

20 "**§ 7B-101. Definitions.**

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

23 (1) Abused juveniles. – Any juvenile less than 18 years of age (i) who is found to
24 be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose
25 parent, guardian, custodian, or caretaker:

26 ...

27 h. Exposes the juvenile repeatedly to drugs, other than those prescribed
28 by a licensed medical provider, while the juvenile is in utero.

29 ...

30 (15a) Nonrelative kin. – An individual having a substantial relationship with the
31 juvenile-juvenile, including the presumption that a foster parent with whom a
32 juvenile under 3 years of age has resided for a continuous period of at least
33 nine months is deemed nonrelative kin for purposes of this Subchapter. In the
34 case of a juvenile member of a State-recognized tribe as set forth in
35 G.S. 143B-407(a), nonrelative kin also includes any member of a



State-recognized tribe or a member of a federally recognized tribe, whether or not there is a substantial relationship with the juvenile.

...

(18a) Relative. – An individual directly related to the juvenile, including, but not limited to, a parent, grandparent, sibling, aunt, or uncle.

~~(18a)~~(18b) Responsible individual. – A parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile.

~~(18b)~~(18c) Return home or reunification. – Placement of the juvenile in the home of either parent or placement of the juvenile in the home of a guardian or custodian from whose home the child was removed by court order.

...."

SECTION 3. G.S. 7B-503(a) is amended by adding a new subdivision to read:

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

...

(7) The juvenile is an infant who (i) was born drug-exposed and the drug exposure was not medically based, (ii) the parent is unable to discharge parental responsibilities due to a history of chronic drug abuse, and (iii) there are reasonable grounds to believe that the parent's substance abuse will continue for a prolonged or indeterminate period based on the opinion of a licensed health care provider with substance abuse disorders experience.

...."

SECTION 4. G.S. 7B-505(b) reads as rewritten:

"(b) The court shall order the department of social services to make diligent efforts to notify relatives and other persons with legal custody of a sibling of the juvenile that the juvenile is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless the court finds the notification would be contrary to the best interests of the juvenile. The department of social services shall use due diligence to identify and notify adult relatives, next of kin, and other persons with legal custody of a sibling of the juvenile within 30 days after the initial order removing custody. The department shall file with the court information regarding attempts made to identify and notify adult relatives of the child, next of kin, and persons with legal custody of a sibling of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall first consider whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. juvenile, including, but not limited to, the developmental and attachment needs of the juvenile."

SECTION 5. G.S. 7B-901(c)(1)e. reads as rewritten:

"(c) If the disposition order places a juvenile in the custody of a county department of social services, the court shall direct that reasonable efforts for reunification as defined in G.S. 7B-101 shall not be required if the court makes written findings of fact pertaining to any of the following, unless the court concludes that there is compelling evidence warranting continued reunification efforts:

(1) A court of competent jurisdiction determines or has determined that aggravated circumstances exist because the parent has committed or encouraged the commission of, or allowed the continuation of, any of the following upon the juvenile:

...

- 1 e. Chronic or toxic exposure to alcohol or controlled substances that
2 causes impairment of or addiction in the ~~juvenile~~. juvenile, including
3 exposure to nonmedical controlled substances in utero."

4 **SECTION 6.** G.S. 7B-903(a1) reads as rewritten:

5 "(a1) In placing a juvenile in out-of-home care under this section, the court shall first
6 consider whether a relative of the juvenile is willing and able to provide proper care and
7 supervision of the juvenile in a safe home. If the court finds that the relative is willing and able
8 to provide proper care and supervision in a safe home, then the court shall order placement of the
9 juvenile with the relative unless the court finds that the placement is contrary to the best interests
10 of the ~~juvenile~~. juvenile, including, but not limited to, the developmental and attachment needs
11 of the juvenile. Once a child under 3 years of age has resided in the home of a foster parent for a
12 continuous period of at least nine months, the foster parent is deemed to be nonrelative kin for
13 purposes of this subsection. In placing a juvenile in out-of-home care under this section, the court
14 shall also consider whether it is in the juvenile's best interest to remain in the juvenile's
15 community of residence. Placement of a juvenile with a relative outside of this State must be in
16 accordance with the Interstate Compact on the Placement of Children.

17 If the court does not place the juvenile with a relative pursuant to this subsection, the court
18 may consider whether nonrelative kin or other persons with legal custody of a sibling of the
19 juvenile are willing and able to provide proper care and supervision of the juvenile in a safe
20 home. The court may order the department to notify the juvenile's State-recognized tribe of the
21 need for nonsecure custody for the purpose of locating relatives or nonrelative kin for placement.
22 The court may order placement of the juvenile with nonrelative kin if the court finds the
23 placement is in the juvenile's best interests."

24 **SECTION 7.** G.S. 7B-906.1 reads as rewritten:

25 **"§ 7B-906.1. Review and permanency planning hearings.**

26 (a) The court shall conduct a review hearing within 90 days from the date of the initial
27 dispositional hearing held pursuant to G.S. 7B-901 and shall conduct a review hearing within six
28 months thereafter. ~~Within~~ It shall be the goal of the department to place infants under 3 years of
29 age in a prospective permanent placement within 12 months of the date of the initial order
30 removing custody. For all other juveniles older than 3 years of age, within 12 months of the date
31 of the initial order removing custody, there shall be a review hearing designated as a permanency
32 planning hearing. Review hearings after the initial permanency planning hearing shall be
33 designated as subsequent permanency planning hearings. Subsequent permanency planning
34 hearings shall be held at least every six months thereafter or earlier as set by the court to review
35 the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a
36 new permanent plan for the juvenile.

37 ...

38 (d) At each hearing, the court shall consider the following criteria and make written
39 findings regarding those that are relevant:

40 ...

- 41 (3) Whether efforts to reunite the juvenile with either parent clearly would be
42 unsuccessful or inconsistent with the juvenile's health or safety and need for a
43 safe, permanent home within a reasonable period of ~~time~~. time, including
44 whether a parent has engaged in any of the factors described under
45 G.S. 7B-901(c). The court shall consider efforts to reunite regardless of
46 whether the juvenile resided with the parent, guardian, or custodian at the time
47 of removal. If the court determines efforts would be unsuccessful or
48 inconsistent, the court shall schedule a permanency planning hearing within
49 30 days to address the permanent plans in accordance with this section and
50 G.S. 7B-906.2, unless the determination is made at a permanency planning
51 hearing.

1 ...
2 (n) Notwithstanding other provisions of this Article, the court may waive the holding of
3 hearings required by this section, may require written reports to the court by the agency or person
4 holding custody in lieu of review hearings, or order that review hearings be held less often than
5 every six months if the court finds by clear, cogent, and convincing evidence each of the
6 following:

7 ...
8 The court may not waive or refuse to conduct a ~~review-permanency planning~~ hearing if a
9 party files a motion seeking the ~~review-hearing~~. However, if a guardian of the person has been
10 appointed for the juvenile and the court has also made findings in accordance with subsection (n)
11 of this section that guardianship is the permanent plan for the juvenile, the court shall proceed in
12 accordance with G.S. 7B-600(b).

13"

14 **SECTION 8.** G.S. 7B-905(b) reads as rewritten:

15 "(b) ~~A~~~~An initial~~ dispositional order ~~under which a juvenile is removed from the custody~~
16 ~~of a parent, guardian, custodian, or caretaker~~ shall direct that the review hearing required by
17 G.S. 7B-906.1 be held within 90 days from of the date of the initial dispositional hearing and, if
18 practicable, shall set the date and time for the review hearing."

19 **SECTION 9.** G.S. 7B-906.2(b) reads as rewritten:

20 "(b) At any permanency planning hearing, the court shall adopt concurrent permanent
21 plans and shall identify the primary plan and secondary plan. Reunification shall remain a
22 primary or secondary plan unless the court makes or has made written findings under
23 G.S. 7B-901(c) or makes written findings that reunification efforts clearly would be unsuccessful
24 or would be inconsistent with the juvenile's health or safety. The court shall order the county
25 department of social services to make efforts toward finalizing the primary and secondary
26 permanent plans and may specify efforts that are reasonable to timely achieve permanence for
27 the juvenile."

28 **SECTION 10.** G.S. 7B-1103(a) is amended by adding a new subdivision to read:

29 "(a) A petition or motion to terminate the parental rights of either or both parents to his,
30 her, or their minor juvenile may only be filed by one or more of the following:

31 ...

32 (8) Any foster parent with whom the juvenile under 3 years of age has resided for
33 a continuous period of at least nine months next preceding the filing of the
34 petition or motion."

35 **SECTION 11.** This act becomes effective October 1, 2019, and applies to actions
36 filed or pending on or after that date.