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SENATE BILL DRS45395-NB-39

Short Title: Expedite Child Safety and Permanency. (Public)

Sponsors: Senators Jarvis, Krawiec, and Edwards (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ABUSE, NEGLECT, AND DEPENDENCY LAWS TO ENSURE THE SAFETY OF CHILDREN IN OUT-OF-HOME PLACEMENTS; TO EXPEDITE PERMANENCY PLANNING HEARINGS FOR CHILDREN WHO HAVE BEEN REMOVED FROM THE HOME; TO CREATE A PRESUMPTION THAT FOSTER PARENTS WITH WHOM A CHILD HAS LIVED CONTINUOUSLY FOR NINE MONTHS ARE DEEMED NONRELATIVE KIN; AND TO CREATE AN AGGRAVATING CIRCUMSTANCE FOR THE EXPOSURE TO UNLAWFUL CONTROLLED SUBSTANCES IN UTERO OR CONTROLLED SUBSTANCES USED IN VIOLATION OF THE LAW IN UTERO.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 7B-100 reads as rewritten:

"§ 7B-100. Purpose.

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

...

- (5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time, one year from the date of the initial order removing custody."

SECTION 1.(b) G.S. 7B-101 reads as rewritten:

"§ 7B-101. Definitions.

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

...

- (15) Neglected juvenile. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under ~~G.S. 14-43.15~~ or G.S. 14-43.15, (ii) whose parent, guardian, custodian, or caretaker does not provide proper care, supervision, or discipline; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of ~~law~~ law, or (iii) whose parent, guardian, custodian, or caretaker uses an



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1 illegal controlled substance or abuses alcohol or a controlled substance and is
 2 unable to care for and provide a safe and appropriate home for the juvenile. In
 3 determining whether a juvenile is a neglected juvenile, it is relevant whether
 4 that juvenile lives in a home where another juvenile has died as a result of
 5 suspected abuse or neglect or lives in a home where another juvenile has been
 6 subjected to abuse or neglect by an adult who regularly lives in the home.

7 ...

8 (18a) Relative. – An individual directly related to the juvenile by blood, marriage,
 9 or adoption including, but not limited to, a grandparent, sibling, aunt, or uncle.

10 ~~(18a)~~(18b) Responsible individual. – A parent, guardian, custodian, caretaker, or
 11 individual responsible for subjecting a juvenile to human trafficking under
 12 G.S. 14-43.11, 14-43.12, or 14-43.13, who abuses or seriously neglects a
 13 juvenile.

14 ~~(18b)~~(18c) Return home or reunification. – Placement of the juvenile in the home of
 15 either parent or placement of the juvenile in the home of a guardian or
 16 custodian from whose home the child was removed by court order.

17"

18 **SECTION 1.(c)** G.S. 7B-503(a) reads as rewritten:

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

23 ...

24 (7) The juvenile is an infant who was born drug-exposed to alcohol, unlawful
 25 controlled substances, or controlled substances used in violation of the law. If
 26 the parent is enrolled in and meeting or exceeding the benchmarks of a
 27 substance abuse treatment program recommended by a medical provider or a
 28 local management entity/managed care organization (LME/MCO), then any
 29 alcohol, unlawful controlled substances use, or use of controlled substances
 30 in violation of the law shall not be the sole ground for ordering nonsecure
 31 custody.

32 A juvenile alleged to be abused, neglected, or dependent shall be placed in nonsecure custody
 33 only when there is a reasonable factual basis to believe that there are no other reasonable means
 34 available to protect the juvenile. The developmental and attachment needs of the juvenile must
 35 be considered in making nonsecure custody determinations. In no case shall a juvenile alleged to
 36 be abused, neglected, or dependent be placed in secure custody."

37 **SECTION 1.(d)** G.S. 7B-505(b) reads as rewritten:

38 "(b) The court shall order the department of social services to make diligent efforts to
 39 notify relatives and other persons with legal custody of a sibling of the juvenile that the juvenile
 40 is in nonsecure custody and of any hearings scheduled to occur pursuant to G.S. 7B-506, unless
 41 the court finds the notification would be contrary to the best interests of the juvenile. The
 42 department of social services shall use due diligence to identify and notify adult relatives, next
 43 of kin, and other persons with legal custody of a sibling of the juvenile within 30 days after the
 44 initial order removing custody. The department shall file with the court information regarding
 45 attempts made to identify and notify adult relatives of the child, next of kin, and persons with
 46 legal custody of a sibling of the juvenile. In placing a juvenile in nonsecure custody under this
 47 section, the court shall first consider whether a relative of the juvenile is willing and able to
 48 provide proper care and supervision of the juvenile in a safe home. If the court finds that the
 49 relative is willing and able to provide proper care and supervision in a safe home, then the court
 50 shall order placement of the juvenile with the relative unless the court finds that placement with

1 the relative would be contrary to the best interests of the ~~juvenile~~-juvenile, including, but not
 2 limited to, the developmental and attachment needs of the juvenile."

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

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

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

13 ...

14 e. Chronic or toxic exposure to alcohol or controlled substances that
 15 causes impairment of or addiction in the ~~juvenile~~-juvenile, including,
 16 but not limited to, exposure to unlawful controlled substances in utero
 17 or controlled substances used in violation of the law in utero. The court
 18 shall consider whether a parent is enrolled in and meeting or exceeding
 19 the benchmarks of a substance abuse treatment program recommended
 20 by a medical provider or a local management entity/managed care
 21 organization (LME/MCO)."

22 **SECTION 1.(f)** G.S. 7B-903 reads as rewritten:

23 **"§ 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**

24 ...

25 (a1) In placing a juvenile in out-of-home care under this section, the court shall first
 26 consider whether a relative of the juvenile is willing and able to provide proper care and
 27 supervision of the juvenile in a safe home. If the court finds that the relative is willing and able
 28 to provide proper care and supervision in a safe home, then the court shall order placement of the
 29 juvenile with the relative unless the court finds that the placement is contrary to the best interests
 30 of the ~~juvenile~~-juvenile, including, but not limited to, the developmental and attachment needs
 31 of the juvenile. In placing a juvenile in out-of-home care under this section, the court shall also
 32 consider whether it is in the juvenile's best interest to remain in the juvenile's community of
 33 residence. Placement of a juvenile with a relative outside of this State must be in accordance with
 34 the Interstate Compact on the Placement of Children.

35 ...

36 (a4) If the court does not place the juvenile with a relative, the court may consider whether
 37 nonrelative kin or other persons with legal custody of a sibling of the juvenile are willing and
 38 able to provide proper care and supervision of the juvenile in a safe home. The court may order
 39 the department to notify the juvenile's State-recognized tribe of the need for nonsecure custody
 40 for the purpose of locating relatives or nonrelative kin for placement. The court may order
 41 placement of the juvenile with nonrelative kin if the court finds the placement is in the juvenile's
 42 best interests.

43 (a5) Once a juvenile who is not a member of a State-recognized tribe as set forth in
 44 G.S. 143B-407(a) has resided in the home of a foster parent for a continuous period of at least
 45 nine months, the foster parent is deemed to be nonrelative kin for purposes of this subsection.

46"

47 **SECTION 1.(g)** G.S. 7B-906.1 reads as rewritten:

48 **"§ 7B-906.1. Review and permanency planning hearings.**

49 (a) The court shall conduct a review hearing within 90 days from the date of the initial
 50 dispositional hearing held pursuant to G.S. 7B-901. Review hearings shall be held at least every
 51 six months thereafter. Within ~~12~~-nine months of the date of the initial order removing custody,

1 there shall be a review hearing designated as a permanency planning hearing. Review hearings
2 after the initial permanency planning hearing shall be designated as permanency planning
3 hearings. Permanency planning hearings shall be held at least every six months thereafter or
4 earlier as set by the court to review the progress made in finalizing the permanent plan for the
5 juvenile, or if necessary, to make a new permanent plan for the juvenile.

6 ...

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

9 ...

10 (3) Whether efforts to reunite the juvenile with either parent clearly would be
11 unsuccessful or inconsistent with the juvenile's health or safety and need for a
12 safe, permanent home within a reasonable period of ~~time~~ time, including
13 whether a parent has engaged in any of the factors described under
14 G.S. 7B-901(c). The court shall consider efforts to reunite regardless of
15 whether the juvenile resided with the parent, guardian, or custodian at the time
16 of removal. If the court determines efforts would be unsuccessful or
17 inconsistent, the court shall schedule a permanency planning hearing within
18 30 days to address the permanent plans in accordance with this section and
19 G.S. 7B-906.2, unless the determination is made at a permanency planning
20 hearing.

21 ...

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

27 ...

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

33"

34 **SECTION 1.(h)** G.S. 7B-905(b) reads as rewritten:

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

39 **SECTION 1.(i)** G.S. 7B-906.2(b) reads as rewritten:

40 "(b) At any permanency planning hearing, the court shall adopt concurrent permanent
41 plans and shall identify the primary plan and secondary plan. Reunification shall be a primary or
42 secondary plan unless the court makes or has made written findings under G.S. 7B-901(c) or
43 G.S. 7B-906.1(d)(3), the permanent plan is or has been achieved in accordance with subsection
44 (a1) of this section, or the court makes written findings that reunification efforts clearly would
45 be unsuccessful or would be inconsistent with the juvenile's health or safety. The finding that
46 reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or
47 safety may be made at any permanency planning hearing. Unless permanence has been achieved,
48 the court shall order the county department of social services to make efforts toward finalizing
49 the primary and secondary permanent plans and may specify efforts that are reasonable to timely
50 achieve permanence for the juvenile."

51 **SECTION 1.(j)** G.S. 7B-1103(a) reads as rewritten:

1 "(a) A petition or motion to terminate the parental rights of either or both parents to his,
2 her, or their minor juvenile may only be filed by one or more of the following:
3 ...
4 (5) Any person with whom the juvenile has resided for a continuous period of ~~two~~
5 ~~years~~ 15 months or more next preceding the filing of the petition or motion.
6 "
7 **SECTION 2.** This act becomes effective October 1, 2021, and applies to actions
8 filed or pending on or after that date.