

House Bill 301/Session Law 2019-33
An Act to make revisions to the Juvenile Code pursuant to recommendations
by the Court Improvement Program (CIP)

SECTION 1.

Amends G.S. 7B-101

Expands the definition of responsible individual to include an individual responsible for subjecting a juvenile to human trafficking, sexual servitude, or involuntary servitude, regardless of whether they are parents, guardians, custodians or caretakers. This change comports with changes made to the definition of abused juvenile that went into effect October 1, 2018 and December 1, 2018.

SECTION 2.

Amends G.S. 7B-200

G.S. 7B-200 currently provides for an automatic stay of civil custody actions involving juveniles when an abuse, neglect or dependency (A/N/D) petition is filed. Prior to this amendment, there was no requirement to notify the parties in the stayed action that their action had been stayed. This section adds a requirement for a notice to be placed in the stayed action, if information about the stayed action is made known to the A/N/D court. This amendment requires the creation and use of a new AOC form for the notice.

SECTION 3.

Amends G.S. 7B-320

Amends G.S. 7B-320(a) to require the DSS director to attempt personal delivery of the written notification to the responsible individual in an “expeditious manner” rather than within “5 working days.” (There are no changes to subsection (b) which requires the DSS director to attempt personal delivery for 15 days before using other delivery methods.)

SECTION 4.

Amends G.S. 7B-323

This section amends G.S. 7B-323 to clarify the types of evidence a court may allow to be admitted during a responsible individuals list (RIL) hearing. This change clarifies that courts may permit the admission of relevant and reliable evidence including but not limited to child medical evaluation reports and child and family evaluation reports that a director relied upon to make a determination that abuse or serious neglect occurred. This section also allows law enforcement officers who are investigating the same allegations that led the DSS director to determine that the person was responsible for abuse or serious neglect to attend closed RIL hearings.

SECTION 5.

Amends G.S. 7B-324

This section amends G.S. 7B-324 so that a person identified as a responsible individual is not eligible for judicial review if, prior to the hearing on the petition for judicial review, the person is convicted of a crime that resulted from the same incident that led to identification of the person as a responsible individual.

SECTION 6.

G.S. 7B-503(a)(2)

This section adds “serious emotional damage” as it is defined within the definition of abused juvenile in G.S. 7B-101(e) as an additional ground for nonsecure custody. As per G.S. 7B-101(e), “serious emotional damage is evidenced by a juvenile’s severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others.”

SECTION 7.(a)

Amends G.S. 7B-600(c)

This section amends G.S. 7B-600 to allow a court to find that a prospective guardian’s provision of a stable placement for a juvenile for six consecutive months is evidence that the prospective guardian has adequate resources “to appropriately care for the juvenile.”

SECTION 7.(b)

Amends G.S. 7B-903(a)(4)

This section amends 7B-903(a)(4) to allow a court to find that a prospective custodian’s provision of a stable placement for a juvenile for six consecutive months is evidence that the prospective custodian has adequate resources “to appropriately care for the juvenile.”

SECTION 8.

Amends G.S. 7B-901(c)(2) and (d)

The amendment to 7B-901(c)(2) clarifies that a court may not terminate the parental rights of a parent to one juvenile and simultaneously use that termination to cease reasonable efforts for reunification in an initial disposition hearing for a sibling of that juvenile.

The amendment to G.S. 7B-901(d) clarifies that the court shall conduct a permanency planning hearing within 30 days when a court determines that reunification efforts are not required at the initial disposition.

SECTION 9.

Amends G.S. 7B-905.1(a) and (b)

The amendment to 7B-905.1(a) clarifies that when a court order removes custody of the juvenile from a parent, guardian, or custodian or when an order continues the juvenile's placement outside of the home, a court may order that no visitation occur if it is in the juvenile's best interests consistent with the juvenile's health and safety.

The amendment to 7B-905.1(b) requires a DSS agency to request a hearing within 30 days of the director's suspension of a visitation plan, unless a review or permanency planning hearing is already scheduled to be heard within 30 days of the suspension.

SECTION 10.

Amends G.S. 7B-906.1(a), (g), (j) and (n)(1)

The amendment to G.S. 7B-906.1(a) provides that a court shall conduct ongoing review hearings as needed after the initial disposition hearing. This amendment also replaces the term "subsequent permanency planning hearing" with the term "permanency planning hearing."

The amendment to G.S. 7B-906.1(g) eliminates the requirement for the court to warn the parents, guardian, or custodian that "a failure or refusal to cooperate with the plan may result in an order" that reunification efforts shall cease.

The amendment to 7B-906.1(j) mirrors the changes in made to 7B-600(c) and 7B-903(a)(4) which appear in Sections 7.(a) and 7.(b). The amendment to 7B-906.1(j) allows a court to find that a prospective guardian's/custodian's provision of a stable placement for a juvenile for six consecutive months is evidence that the prospective guardian/custodian has adequate resources "to appropriately care for the juvenile."

The amendment to 7B-906.1(n)(1) allows a court to waive further hearings when the juvenile has resided in the placement for at least six consecutive months and the court enters a consent order pursuant to G.S. 7B-801(b1).

SECTION 11.

Amends G.S. 7B-906.2(a1), (b), (c), and (d)

The amendment to 7B-906.2(a1) provides that concurrent planning is not required when a permanent plan is achieved in the order or has been achieved in a prior order.

The amendments to 7B-906.2(b) allow reunification to be removed as a primary or secondary permanent plan at any permanency planning hearing if: 1) reasonable efforts for reunification were ceased at the initial disposition hearing, or 2) at a prior review hearing, the court found that efforts to reunite the juvenile with either parent would be unsuccessful or inconsistent with the juvenile's health or safety and need for a safe, permanent home within a reasonable

period of time, or 3) the court implements or has implemented a permanent plan or 4) the court makes written findings at the permanency planning hearing that reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or safety.

The amendment to G.S. 7B-906.2(c) clarifies that, when reunification is a permanent plan, the court must make a finding about whether the county's reunification efforts were reasonable at each permanency planning hearing.

The amendment to G.S. 7B-906.2(d) requires the court to make written findings that demonstrate the degree of success or failure toward reunification rather than "the lack of success."

SECTION 12.

Amends G.S. 7B-908(b)(1) and (e1)

This section makes three amendments to G.S. 7B-908(b)(1). The first amendment to G.S. 7B-908(b)(1) adds the legal guardian as a person who receives notice of post-termination of parental rights (post-TPR) review hearings. The second amendment to G.S. 7B-908(b)(1) allows a juvenile of any age to participate at post-TPR review hearings. The final amendment clarifies the parties who may participate at post-TPR review hearings.

The amendment to G.S. 7B-908(e1) adds the same language that is currently found in G.S. 7B-906.1(h) and 7B-807 to require that post-TPR orders be reduced to writing, signed by the judge, and filed within 30 days of completion of the hearing and the procedure the clerk must follow when orders are not entered within 30 days.

SECTION 13.

Adds a new section G.S. 7B-909.1

This addition codifies a respondent parent's right to counsel when relinquishing his/her parental rights to DSS for the purpose of adoption. This right is addressed in *In re Maynard*, 116 N.C. App. 616, 448 S.E.2d 871 (1994).

This addition requires that before a respondent parent may execute a relinquishment, notice shall be given by "any reasonable and timely means" to the parent's retained counsel or confirmed counsel, or if they are unavailable, to a partner or employee at their law office that DSS "has made arrangements for the parent to execute a relinquishment at a specific date, time, and location." Prior to executing the relinquishment, the parent must also be advised of the right to seek advice from their attorney and the right to have their attorney present while executing the relinquishment.

SECTION 14.a

Amends G.S. 7B-1001(a) and (a1)

The amendments in Section 14.(a) create consistency in the language in used in G.S. 7B-1001(a) and (a1) regarding appeals.

SECTION 14.b

Amends G.S. 7B-1003(e)

These amendment deletes references to repealed subsections of the Juvenile Code and clarifies that G.S. 7B-903.1 will apply to any order entered during the pendency of an appeal when a juvenile is in DSS custody.

SECTION 15.a

Amends G.S. 7B-2503(1)

This section amends G.S. 7B-2503(1) to allow an attorney appointed to represent a parent whose child was removed from the parent's custody during an undisciplined juvenile disposition to be paid for representing the parent in review and permanency planning hearings under G.S. 7B-906.1.

SECTION 15.b

Amends G.S. 7B-2506(1)

This section amends G.S. 7B-2506(1) to allow an attorney appointed to represent a parent whose child was removed from the parent's custody during a delinquent juvenile disposition to be paid for representing the parent in review and permanency planning hearings under G.S. 7B-906.1.

SECTION 16.

Amends G.S. 7B-3100

This section amends G.S. 7B-3100 to permit a juvenile's guardian ad litem attorney advocate appointed in an abuse, neglect, or dependency matter to share confidential information about the juvenile with the juvenile's attorney appointed or retained pursuant to G.S. 7B-2000 for a delinquent or undisciplined juvenile.

SECTION 17.

This act becomes effective October 1, 2019.