

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 242*

Short Title: Law Enforcement Protection for Social Workers. (Public)

Sponsors: Representatives Warner, Gulley, Hunter, Jeffus; Alexander, Barefoot, Bonner, Dedmon, Haire, Hurley, Lucas, Smith, Sutton, Tolson, Wainwright, and Yongue.

Referred to: Highway Safety and Law Enforcement, if favorable, Judiciary II.

February 26, 2001

A BILL TO BE ENTITLED

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2 AN ACT TO PROVIDE LAW ENFORCEMENT PROTECTION TO SOCIAL
3 SERVICES WORKERS WHEN INVESTIGATING REPORTS OF ABUSE,
4 NEGLECT, OR DEPENDENCY, AND WHEN TAKING TEMPORARY
5 PHYSICAL CUSTODY OF A JUVENILE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 7B-302(e) reads as rewritten:

8 "(e) In performing any duties related to the investigation of the complaint or the
9 provision or arrangement for protective services, the director may consult with any
10 public or private agencies or individuals, including the available State or local law
11 enforcement officers who shall assist in the investigation and evaluation of the
12 seriousness of any report of abuse, neglect, or dependency when requested by the
13 director. Upon request of the director, or the director's representative, local law
14 enforcement shall accompany the social services worker to the premises where the
15 investigation and evaluation is to take place, if there is an indication of potential risk, in
16 order to protect the safety and well-being of the parties involved. The director or the
17 director's representative may make a written demand for any information or reports,
18 whether or not confidential, that may in the director's opinion be relevant to the
19 investigation of or the provision for protective services. Upon the director's or the
20 director's representative's request and unless protected by the attorney-client privilege,
21 any public or private agency or individual shall provide access to and copies of this
22 confidential information and these records to the extent permitted by federal law and
23 regulations. If a custodian of criminal investigative information or records believes that
24 release of the information will jeopardize the right of the State to prosecute a defendant
25 or the right of a defendant to receive a fair trial or will undermine an ongoing or future
26 investigation, it may seek an order from a court of competent jurisdiction to prevent

1 disclosure of the information. In such an action, the custodian of the records shall have
2 the burden of showing by a preponderance of the evidence that disclosure of the
3 information in question will jeopardize the right of the State to prosecute a defendant or
4 the right of a defendant to receive a fair trial or will undermine an ongoing or future
5 investigation. Actions brought pursuant to this paragraph shall be set down for
6 immediate hearing, and subsequent proceedings in the actions shall be accorded priority
7 by the trial and appellate courts.

8 (f) Within five working days after receipt of the report of abuse, neglect, or
9 dependency, the director shall give written notice to the person making the report,
10 unless requested by that person not to give notice, as to whether the report was accepted
11 for investigation and whether the report was referred to the appropriate State or local
12 law enforcement agency.

13 (g) Within five working days after completion of the protective services
14 investigation, the director shall give subsequent written notice to the person making the
15 report, unless requested by that person not to give notice, as to whether there is a finding
16 of abuse, neglect, or dependency, whether the county department of social services is
17 taking action to protect the juvenile, and what action it is taking, including whether or
18 not a petition was filed. The person making the report shall be informed of procedures
19 necessary to request a review by the prosecutor of the director's decision not to file a
20 petition. A request for review by the prosecutor shall be made within five working days
21 of receipt of the second notification. The second notification shall include notice that, if
22 the person making the report is not satisfied with the director's decision, the person may
23 request review of the decision by the prosecutor within five working days of receipt.
24 The person making the report may waive the person's right to this notification, and no
25 notification is required if the person making the report does not identify himself to the
26 director."

27 **SECTION 2.** G.S. 7B-500 reads as rewritten:

28 "**§ 7B-500. Taking a juvenile into temporary custody.**

29 Temporary custody means the taking of physical custody and providing personal
30 care and supervision until a court order for nonsecure custody can be obtained. A
31 juvenile may be taken into temporary custody without a court order by a law
32 enforcement officer or a department of social services worker if there are reasonable
33 grounds to believe that the juvenile is abused, neglected, or dependent and that the
34 juvenile would be injured or could not be taken into custody if it were first necessary to
35 obtain a court order. Upon request of the director, or the director's representative, local
36 law enforcement shall accompany the social services worker to the premises where
37 custody is to be taken in order to protect the safety and well-being of the parties
38 involved. If a department of social services worker takes a juvenile into temporary
39 custody under this section, the worker may arrange for the placement, care, supervision,
40 and transportation of the juvenile."

41 **SECTION 3.** This act is effective when it becomes law.