

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 421*
Judiciary II Committee Substitute Adopted 4/14/03

Short Title: Amend Child Welfare Laws.-AB

(Public)

Sponsors:

Referred to:

March 17, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE
3 CHILD WELFARE LAWS AND TO ENHANCE THE STATE'S ABILITY TO
4 PROTECT CHILDREN.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7B-407 reads as rewritten:

7 "**§ 7B-407. Service of summons.**

8 The summons shall be ~~personally~~ served under G.S. 1A-1, Rule 4(j) upon the parent,
9 guardian, custodian, or caretaker, not less than five days prior to the date of the
10 scheduled hearing. The time for service may be waived in the discretion of the court.

11 If the parent, guardian, custodian, or caretaker entitled to receive a summons cannot
12 be found by a diligent effort, the court may authorize service of the summons and
13 petition by mail or by publication. The cost of the service by publication shall be
14 advanced by the petitioner and may be charged as court costs as the court may direct.

15 If the parent, guardian, custodian, or caretaker is personally served as herein
16 provided and fails without reasonable cause to appear and to bring the juvenile before
17 the court, the parent, guardian, custodian, or caretaker may be proceeded against as for
18 contempt of court."

19 **SECTION 2.** G.S. 7B-1109(d) reads as rewritten:

20 "(d) The court may for good cause shown continue the hearing for ~~such time as is~~
21 ~~required for receiving~~ up to 90 days from the date of the initial petition in order to
22 receive additional evidence, evidence including any reports or assessments which that
23 the court has requested, to allow the parties to conduct expeditious discovery, or any to
24 receive any other information needed in the best interests of the juvenile. Continuances
25 that extend beyond 90 days after the initial petition shall be granted only in
26 extraordinary circumstances when necessary for the proper administration of justice and
27 the court shall issue a written order stating the grounds for granting the continuance."

28 **SECTION 3.** G.S. 110-132(a) reads as rewritten:

1 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish
2 paternity, the written affidavits of parentage executed by the putative father and the
3 mother of the dependent child shall constitute an admission of paternity and shall have
4 the same legal effect as a judgment of ~~paternity for the purpose of establishing a child~~
5 ~~support obligation, paternity, unless the affidavit limits its terms,~~ subject to the right of
6 either signatory to rescind within the earlier of:

- 7 (1) 60 days of the date the document is executed, or
- 8 (2) The date of entry of an order establishing paternity or an order for the
9 payment of child support.

10 In order to rescind, a challenger must request the district court to order the rescission
11 and to include in the order specific findings of fact that the request for rescission was
12 filed with the clerk of court within 60 days of the signing of the document. The court
13 must also find that all parties, including the child support enforcement agency, if
14 appropriate, have been served in accordance with Rule 4 of the North Carolina Rules of
15 Civil Procedure. In the event the court orders rescission and the putative father is
16 thereafter found not to be the father of the child, then the clerk of court shall send a
17 copy of the order of rescission to the State Registrar of Vital Statistics. Upon receipt of
18 an order of rescission, the State Registrar shall remove the putative father's name from
19 the birth certificate. In the event that the putative father defaults or fails to present or
20 prosecute the issue of paternity, the trial court shall find the putative father to be the
21 biological father as a matter of law.

22 After 60 days have elapsed, execution of the document may be challenged in court
23 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of proof
24 shall be on the challenging party, and the legal responsibilities, including child support
25 obligations, of any signatory arising from the executed documents may not be
26 suspended during the challenge except for good cause shown.

27 A written agreement to support the child by periodic payments, which may include
28 provision for reimbursement for medical expenses incident to the pregnancy and the
29 birth of the child, accrued maintenance and reasonable expense of prosecution of the
30 paternity action, when acknowledged as provided herein, filed with, and approved by a
31 judge of the district court at any time, shall have the same force and effect as an order of
32 support entered by that court, and shall be enforceable and subject to modification in the
33 same manner as is provided by law for orders of the court in such cases. The written
34 affidavit shall contain the social security number of the person executing the affidavit.
35 Voluntary agreements to support shall contain the social security number of each of the
36 parties to the agreement. The written affidavits and agreements to support shall be
37 sworn to before a certifying officer or notary public or the equivalent or corresponding
38 person of the state, territory, or foreign country where the affirmation, acknowledgment,
39 or agreement is made, and shall be binding on the person executing the same whether
40 the person is an adult or a minor. The child support enforcement agency shall ensure
41 that the mother and putative father are given oral and written notice of the legal
42 consequences and responsibilities arising from the signing of an affidavit of parentage
43 and of any alternatives to the execution of an affidavit of parentage. The mother shall
44 not be excused from making the affidavit on the grounds that it may tend to disgrace or

1 incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in
2 the conception of the child as to whose paternity she attests."

3 **SECTION 4.** G.S. 115C-378 reads as rewritten:

4 **"§ 115C-378. Children required to attend.**

5 Every parent, guardian or other person in this State having charge or control of a
6 child between the ages of seven and 16 years shall cause such child to attend school
7 continuously for a period equal to the time which the public school to which the child is
8 assigned shall be in session. Every parent, guardian, or other person in this State having
9 charge or control of a child under age seven who is enrolled in a public school in grades
10 kindergarten through two shall also cause such child to attend school continuously for a
11 period equal to the time which the public school to which the child is assigned shall be
12 in session unless the child has withdrawn from school. No person shall encourage,
13 entice or counsel any such child to be unlawfully absent from school. The parent,
14 guardian, or custodian of a child shall notify the school of the reason for each known
15 absence of the child, in accordance with local school policy.

16 The principal, superintendent, or teacher who is in charge of such school shall have
17 the right to excuse a child temporarily from attendance on account of sickness or other
18 unavoidable cause ~~which~~that does not constitute unlawful absence as defined by the
19 State Board of Education. The term "school" as used herein is defined to embrace all
20 public schools and such nonpublic schools as have teachers and curricula that are
21 approved by the State Board of Education.

22 All nonpublic schools receiving and instructing children of a compulsory school age
23 shall be required to keep such records of attendance and render such reports of the
24 attendance of such children and maintain such minimum curriculum standards as are
25 required of public schools; and attendance upon such schools, if the school refuses or
26 neglects to keep such records or to render such reports, shall not be accepted in lieu of
27 attendance upon the public school of the district to which the child shall be assigned:
28 Provided, that instruction in a nonpublic school shall not be regarded as meeting the
29 requirements of the law unless the courses of instruction run concurrently with the term
30 of the public school in the district and extend for at least as long a term.

31 The principal or his designee shall notify the parent, guardian, or custodian of his
32 child's excessive absences after the child has accumulated three unexcused absences in a
33 school year. After not more than six unexcused absences, the principal shall notify the
34 parent, guardian, or custodian by mail that he may be in violation of the Compulsory
35 Attendance Law and may be prosecuted if the absences cannot be justified under the
36 established attendance policies of the State and local boards of education. Once the
37 parents are notified, the school attendance counselor shall work with the child and his
38 family to analyze the causes of the absences and determine steps, including adjustment
39 of the school program or obtaining supplemental services, to eliminate the problem. The
40 attendance counselor may request that a law-enforcement officer accompany him if he
41 believes that a home visit is necessary.

42 After 10 accumulated unexcused absences in a school ~~year-year~~, the principal shall
43 review any report or investigation prepared under G.S. 115C-381 and shall confer with
44 the student and ~~his~~the student's parent, guardian, or ~~custodian~~custodian, if possible

1 possible, to determine whether the parent, guardian, or custodian has received
2 notification pursuant to this section and made a good faith effort to comply with the law.
3 If the principal determines that the parent, guardian, or custodian has not, not made a
4 good faith effort to comply with the law, he-the principal shall notify the district
5 attorney-attorney and the director of social services of the county where the child
6 resides. If he-the principal determines that the parent, guardian, or custodian has, has
7 made a good faith effort to comply with the law, he-the principal may file a complaint
8 with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the
9 child is habitually absent from school without a valid excuse. Evidence that shows that
10 the parents, guardian, or custodian were notified and that the child has accumulated 10
11 absences which cannot be justified under the established attendance policies of the local
12 board shall establish a prima facie case that the child's parent, guardian, or custodian is
13 responsible for the absences. Upon receiving notification by the principal, the director
14 of social services shall determine whether to undertake an investigation under G.S.
15 7B-302."

16 **SECTION 5.** G.S. 131D-10.3A(b) reads as rewritten:

17 "(b) The Department shall ensure that all individuals who are required to be
18 checked pursuant to subsection (a) of this section are checked ~~annually~~ upon relicensure
19 for county and State criminal histories."

20 **SECTION 6.** Chapter 131D of the General Statutes is amended by adding a
21 new section to read:

22 "**§ 131D-10.6C. Maintaining a register of applicants by the Division of Social**
23 **Services.**

24 (a) The Division of Social Services shall keep a register of all family foster and
25 therapeutic foster home applicants. The register shall contain the following information:

26 (1) The name, age, and address of each applicant.

27 (2) The date of the application.

28 (3) The applicant's supervising agency.

29 (4) Any mandated training completed by the applicant and the dates of
30 training.

31 (5) Whether the applicant was licensed and the date of the initial licensure.

32 (6) The current licensing period.

33 (7) Any adverse licensing actions.

34 (8) Any other information deemed necessary by the Division of Social
35 Services.

36 (b) The register shall be a public record under Chapter 132 of the General
37 Statutes. Information not specified in subsection (a) of this section shall be considered
38 confidential and not subject to disclosure."

39 **SECTION 7.** G.S. 143B-150.20(d) reads as rewritten:

40 "(d) The State Child Fatality Review Team shall have access to all medical
41 records, hospital records, and records maintained by this State, any county, or any local
42 agency as necessary to carry out the purposes of this subsection, including police
43 investigative data, medical examiner investigative data, health records, mental health
44 records, and social services records. The State Child Fatality Review Team may receive

1 a copy of any reviewed materials necessary to the conduct of the fatality review. Any
2 member of the State Child Fatality Review Team may share, only in an official meeting
3 of the State Child Fatality Review Team, any information available to that member that
4 the State Child Fatality Review Team needs to carry out its duties.

5 If the State Child Fatality Review Team does not receive information requested
6 under this subsection within 30 days after making the request, the State Child Fatality
7 Review Team may apply for an order compelling disclosure. The application shall state
8 the factors supporting the need for an order compelling disclosure. The State Child
9 Fatality Review Team shall file the application in the district court of the county where
10 the investigation is being conducted and the court shall have jurisdiction to issue any
11 orders compelling disclosure. Actions brought under this section shall be scheduled for
12 immediate hearing, and subsequent proceedings in these actions shall be given priority
13 by the appellate courts."

14 **SECTION 8.** G.S. 153A-257 is amended by adding a new subsection to
15 read:

16 "(d) If two or more county departments of social services disagree regarding the
17 legal residence of a minor in a child abuse, neglect, or dependency case, any one of the
18 county departments of social services may refer the issue to the Department of Health
19 and Human Services, Division of Social Services, for resolution. The Director of the
20 Division of Social Services or the Director's designee shall review the pertinent
21 background facts of the case and shall determine which county department of social
22 services shall be responsible for providing protective services and financial support for
23 the minor in question."

24 **SECTION 9.** This act is effective when it becomes law.