

- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be ~~rendered~~; rendered.
- (3) Proceedings to determine whether a juvenile should be ~~emancipated~~; emancipated.
- (4) Proceedings to terminate parental ~~rights~~; rights.
- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social ~~services~~; services.
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by ~~G.S. 7B-302~~; G.S. 7B-302.
- (7) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General ~~Statutes~~; and Statutes.
- (8) Proceedings by an underage party seeking judicial authorization to marry, pursuant to Article 1 of Chapter 51 of the General Statutes.
- (9) Proceedings for the expunction of an individual's name from the responsible individuals list pursuant to G.S. 7B-312."

SECTION 3. G.S. 7B-302 reads as rewritten:

"§ 7B-302. Investigation by director; access to confidential information; notification of person making the ~~report~~, report; notification to individual responsible for abuse or neglect.

...

(g1) Within five working days after completion of an investigative assessment response that results in a determination of abuse or neglect, the director shall give written notice to the responsible individual by delivering the notice to the sheriff of the county in which the responsible individual is believed to be located for service upon the individual. Service may only be made upon the individual. If the individual entitled to notice cannot be served by the sheriff, then the written notice shall be delivered to the responsible individual by certified mail, return receipt requested. Certified mail notice may only be received by the responsible individual. If, after diligent effort, written notice cannot be served upon the individual by the sheriff or by certified mail, notice shall be made by publication under G.S. 1A-1, Rule 4 (j1). The notice shall:

- (1) Inform the individual of the nature of the report and whether the director determined abuse or neglect or both.
- (2) Summarize the substantial evidence underlying the director's determination without identifying the reporter or collateral contacts.
- (3) Inform the individual that his name has been placed on the responsible individuals list as provided in G.S. 7B-311, and the effect the listing could have on the individual's employment involving child care, applying to be a foster parent, or seeking to adopt a child.

1 (4) Describe clearly what actions the individual must take to request
2 expunction by the director of the individual's name from the
3 responsible individual list and procedures for seeking judicial review
4 of the director's decision not to remove the individual's name from the
5 list.

6 "

7 **SECTION 4.** G.S. 7B-311 reads as rewritten:

8 "**§ 7B-311. Central registry.**

9 The Department of Health and Human Services shall maintain a central registry of
10 abuse, neglect, and dependency cases and child fatalities that are the result of alleged
11 maltreatment that are reported under this Article in order to compile data for appropriate
12 study of the extent of abuse and neglect within the State and to identify repeated abuses
13 of the same juvenile or of other juveniles in the same family. The Department of Health
14 and Human Services shall also maintain a list of responsible individuals identified by
15 county directors of social services. This data shall be furnished by county directors of
16 social services to the Department of Health and Human Services and shall be
17 confidential, except as specifically provided otherwise by statute or by rules-subject to
18 ~~policies~~ adopted by the Social Services Commission providing for its use for study and
19 research and for other appropriate disclosure. Data shall not be used at any hearing or
20 court proceeding unless based upon a final judgment of a court of law. The Social
21 Services Commission may adopt rules pertaining to the operation of the central registry
22 and responsible individuals list, including the following:

23 (1) Procedures for filing data.

24 (2) Procedures for notifying a responsible individual of a determination of
25 abuse or neglect.

26 (3) Procedures for correcting and expunging information.

27 (4) Determining persons who are authorized to receive information from
28 the responsible individuals list.

29 (5) Releasing information from the responsible individuals list to
30 authorized requestors.

31 (6) Gathering statistical information.

32 (7) Keeping and maintaining information placed in the registry and on the
33 responsible individuals list."

34 **SECTION 5.** Article 3 of Subchapter I of Chapter 7B of the General Statutes
35 is amended by adding the following new section to read:

36 "**§ 7B-312. Requests for expunction, review, and appeal.**

37 (a) Any individual who has been identified as a responsible individual in an
38 abuse or neglect case may, within 30 days after receipt of notice pursuant to
39 G.S. 7B-302(g1), request the director who determined the abuse or neglect and
40 identified the individual as a responsible individual to expunge the individual's name
41 from the responsible individuals list. The request for expunction shall be in writing,
42 addressed to the director who determined the abuse or neglect and identified the
43 individual as a responsible individual, and delivered in person or by certified mail,
44 return receipt requested, within 30 days after receipt of notice.

1 **(b)** After receipt of a timely request for the expunction of an individual's name
2 from the responsible individuals list, the director shall, within 15 working days, review
3 all records, reports, and other case documentation pertaining to the determination. The
4 director shall determine whether there is substantial evidence to support the
5 determination and the placement of the individual's name on the responsible individuals
6 list, and proceed as follows:

7 **(1)** If the director decides that there is not substantial evidence in the
8 records, reports, or other case documentation of the county department
9 of social services to support a determination of abuse or neglect and to
10 support the identification of the individual as a responsible individual,
11 the director shall notify the Department of Health and Human Services
12 to expunge the individual's name from the responsible individuals list,
13 and prepare and send the individual seeking expunction, by personal
14 delivery or first-class mail, a written statement of the director's
15 decision.

16 **(2)** If the director decides that there is substantial evidence in the records,
17 reports, or other case documentation of the county department of social
18 services to support a determination of abuse or neglect and to support
19 the identification of the individual as a responsible individual, the
20 director may uphold or modify the director's prior decision accordingly
21 and shall prepare and send the individual seeking expunction, by
22 personal delivery or first-class mail, a written statement of the
23 director's decision, the reasons for the decision, a clear statement that it
24 is a final decision, and the time by which the individual must file a
25 petition for expunction with the district court. The director shall also
26 include a second notice containing the information required by
27 G.S. 7B-302(g1) and a copy of a petition for expunction form. If the
28 director modifies the prior decision, the director shall notify the
29 Department of Health and Human Services, which shall change its
30 records accordingly.

31 **(c)** If, on review, the director determines that there is substantial evidence to
32 support a determination of abuse or neglect and to support the identification of the
33 individual as a responsible individual, the individual seeking expunction may, within 30
34 days after receipt of notice pursuant to subsection (b) of this section, request a review of
35 the director's decision by the district court of the county in which the abuse or neglect
36 report arose. If the director fails to act on the request for expunction within 30 working
37 days after its receipt, this failure will function as a refusal to expunge the individual's
38 name, and the individual seeking expunction may, within 30 days thereafter, request a
39 review of the director's decision not to expunge the individual's name by the district
40 court of the county in which the abuse or neglect report arose. The request shall be by a
41 petition for expunction filed with the appropriate clerk of court's office with a copy
42 delivered in person or by certified mail, return receipt requested, to the director. The
43 petition for expunction shall contain the name, date of birth, and address of the
44 individual seeking expunction, the name of the juvenile who was the subject of the

1 determination of abuse or neglect, and facts that invoke the jurisdiction of the court.
2 Failure to timely file a petition for expunction constitutes a waiver of the individual's
3 right to file a petition for expunction and to a district court hearing.

4 (d) The clerk of court shall maintain a separate docket for such expunction
5 actions and upon receipt of a filed petition for expunction shall calendar the matter for
6 hearing at a session of district court hearing juvenile matters and send notice of the
7 hearing to the petitioner and the director. Upon the request of a party, the court may
8 close the hearing to all persons, except officers of the court, the parties, and their
9 witnesses. At the hearing, the director shall have the burden of proving by a
10 preponderance of the evidence the correctness of the director's decision determining
11 abuse or neglect and identifying the individual seeking expunction as a responsible
12 individual. The hearing shall be before a judge without a jury. The rules of evidence
13 applicable in civil cases shall apply. However, the court shall have discretion to permit
14 the admission of any reliable and relevant evidence if the general purposes of the rules
15 of evidence will be served and the interests of justice will best be served by its
16 admission. At the hearing, the following rights of the parties shall be preserved:

- 17 (1) The right to present sworn evidence, law, or rules that bear upon the
18 case.
- 19 (2) The right to represent themselves or obtain the services of an attorney
20 at their own expense.
- 21 (3) The right to subpoena witnesses, cross-examine witnesses of the other
22 party, and make a closing argument summarizing the party's view of
23 the case and the law.

24 (e) After the hearing, the court shall enter a written order containing findings of
25 fact and conclusions of law. The order shall be reduced to writing, signed, and entered
26 no later than 30 days following the completion of the hearing. A copy of the order shall
27 be served on each party or the party's attorney of record. If the court concludes that the
28 director has not established by a preponderance of the evidence the correctness of the
29 determination of abuse or neglect or the identification of the responsible individual, the
30 court shall reverse the director's decision and order the director to notify the Department
31 of Health and Human Services to expunge the individual's name from the responsible
32 individual list. If the court concludes that sufficient evidence has not been presented to
33 support a determination of abuse, but there is sufficient evidence to support a
34 determination of neglect and the identification of the individual seeking expunction as a
35 responsible individual, the court shall modify the director's decision and order the
36 director to notify the Department of Health and Human Services to change the entry on
37 the responsible individuals list to that of neglect. Any appeal shall be in accordance with
38 G.S. 7A-27(c).

39 (f) Any individual who has been identified as a responsible individual in an
40 abuse or neglect case shall no longer be entitled to challenge the placement of the
41 individual's name on the responsible individuals list pursuant to this section if:

- 42 (1) That individual is criminally convicted as a result of the same incident.
- 43 (2) That individual is a respondent in a juvenile court proceeding
44 regarding abuse or neglect resulting from the same incident.

- 1 (3) That individual fails to make a timely request to the director who made
2 the determination of abuse or neglect and identified the individual as a
3 responsible individual for the expunction of the individual's name from
4 the responsible individuals list.
- 5 (4) That individual fails to file a petition for expunction in a timely
6 manner.
- 7 (5) That individual fails to keep the county department of social services
8 informed of his current address throughout an investigative assessment
9 response and any request for expunction so that the individual may
10 receive notification of the director's decisions.

11 If prior to or during any proceeding provided for in this section, an individual seeking
12 expunction is named as a respondent in a juvenile court case resulting from the same
13 incident, the director, the district court judge, or the Court of Appeals shall stay any
14 further proceedings for the expunction of that individual's name from the responsible
15 individuals list until the juvenile court case is concluded or dismissed. If a juvenile court
16 case resulting from the same determination of abuse or neglect is dismissed, or
17 concludes without an adjudication of abuse or neglect, or with an adjudication that
18 differs from the prior determination, the director shall notify the Department of Health
19 and Human Services to expunge the individual's name from the responsible individuals
20 list or modify the prior decision of the director accordingly."

21 **SECTION 6.** This act becomes effective October 1, 2005, and applies to
22 abuse or neglect reports received by county departments of social services on or after
23 that date.