

2019 N.C. Legislative Changes to the Juvenile Code Related to Abuse, Neglect, Dependency and TPRs

Although the 2019 Legislative Session has not yet adjourned, there have been changes made to the abuse, neglect, dependency and termination of parental rights statutes in the Juvenile Code (G.S. Chapter 7B). The changes discussed below are already effective as law. There may be more changes to come given that the legislature has not adjourned. For now, here are key highlights of the changes to the Juvenile Code related to child welfare.

1. **An Act to Make Revisions to the Juvenile Code Pursuant to Recommendations by the Court Improvement Program (CIP), [S. L. 2019-33](#).**

The effective date of the various amendments is October 1, 2019.

“Responsible Individuals List” (RIL). Sections 1, 3, 4, and 5 make changes effecting the RIL. The definition of “responsible individual” at G.S. 7B-101(18a) is amended to include an “individual responsible for subjecting a juvenile to human trafficking” (including both labor and sex trafficking).

Regarding the procedures for the RIL, G.S. 7B-320(a) is amended to change the time period for when DSS must send a notice of its determination that a person is a responsible individual from within 5 working days after the assessment is completed to “in an expeditious manner.” G.S. 7B-723(b) is amended to allow law enforcement investigating the same allegations to remain in the hearing even when the courtroom is closed to the public and explicitly references child medical evaluation and child and family evaluation reports as evidence that may (in the judge’s discretion) be admitted at the hearing. The enactment of G.S. 7B-324(a2) makes clear that an individual is not entitled to a judicial review if they are criminally convicted for the same incident. If the conviction occurs after the petition for judicial review is filed, the court must dismiss the petition with prejudice.

Automatic Stay of Civil Action where Custody Is at Issue: Section 2 amends G.S. 7B-200(c)(1). When the custody issue in the civil action is automatically stayed, the court must ensure that a notice is filed in the stayed action if the county and case file number is made known to the court. The AOC is directed to create a form that includes the notice of the stay. That form is AOC-J-165, [Notice of Stay of Child Custody Issue](#) (Oct. 2019).

Nonsecure Custody: Section 6 amends G.S. 7B-503(a)(2) to add “serious emotional injury as defined by G.S. 7B-101(1)e.” to the criteria authorizing the court to enter a nonsecure custody order.

Verification of Adequate Resources for a Guardian or Custodian: Sections 7 and 10 amend G.S. 7B-600 (guardian), 7B-903(a)(4) (custody), and 7B-906.1(j) (custody or guardian) to state that the provision of a stable placement for the juvenile by that person for at least 6 consecutive months is evidence of adequate resources.

Visitation: Section 9 amends G.S. 7B-905.1(a), which requires visitation be addressed in an order where custody is not with a parent, guardian, or custodian, to include “no visitation” as an option. Subsection (b) addresses when DSS temporarily suspends visitation due to the child’s health and safety and is amended to require DSS to request a hearing be scheduled within 30 days unless a review or permanency planning hearing is already scheduled within that 30-day time period.

Permanency Planning: Sections 8, 10, 11 address permanency planning. Amendments were made to G.S. 7B-901(d), 7B-906.1(a) & (g), and 7B-906.2(b) to remove the terms “remain” and “subsequent” in reference to any permanency planning hearing. These changes appear to be a legislative response to the court of appeals opinion in *In re C.P.*, 812 S.E.2d 188 (2018) that focused on those terms when holding reunification must be a permanent plan at the first permanency planning hearing (see my blog post discussing this “two-step” process [here](#)). Additionally, G.S. 7B-906.1(n)(1) is amended to allow the court to waive further review hearings, hold them in intervals longer than within every 6 months, or require written reports in lieu of the hearings when the juvenile has resided in the placement for 6 consecutive months and a consent order is entered.

Post-TPR Placement Court Reviews: Section 12 amends G.S. 7B-908(b)(1) addressing the parties that may (versus shall) attend a post-TPR placement review to include the juvenile (regardless of age; previously the statute identified juveniles 12 and older) and the juvenile’s guardian. Subsection (e1) was enacted to require the order be entered within 30 days of the completion of the hearing and sets procedures for when that time limit is not satisfied.

Relinquishments to DSS: Section 13 creates G.S. 7B-909.1 which essentially codifies the holding of *In re Maynard*, 116 N.C. App. 616 (1994). Before a respondent parent with retained counsel may execute a relinquishment to DSS, notice must be given to that counsel and the parent must be advised of their right to seek the advice of their counsel and have their counsel present.

Parent Representation when Child’s Delinquency/Undisciplined Disposition Is DSS Custody: Section 15 amended both G.S. 7B-2503(1)c. and 7B-2506(1)c. to entitle a parent who is indigent to court-appointed counsel for the required G.S. 7B-906.1 hearings that occur when a juvenile is placed in DSS custody as a delinquency or undisciplined disposition. The parent may make a knowing and voluntary waiver of this right.

GAL Sharing Information: Section 16 amends G.S. 7B-3100 to explicitly authorize the child’s G.S. 7B-601 guardian ad litem (GAL) to share confidential information about the juvenile with that juvenile’s attorney in delinquency or contempt proceeding in an undisciplined action. _

- 2. An Act ... to Authorize a Local Director of Social Services to Determine if a Juvenile Who Is Alleged to Have Been Abused, Neglected, or Dependent Has an Association with the Military and to Share that Information with the Appropriate Military Authorities.... [S. L. 2019-201](#).**

This law is effective as of August 23, 2019. Part III, Section 3 amends G.S. 7B-302(a) to require DSS to collect military information concerning the juvenile's parent, guardian, custodian, or caretaker as part of an assessment of abuse or neglect. Additionally, G.S. 7B-302(a1)(1) and 7B-307 are amended to require DSS to disclose confidential information with the appropriate military authority when there is evidence of abuse or neglect and the parent, guardian, custodian, or caretaker has a military affiliation.

3. An Act to ... Make Various Changes Under the Law Pertaining to Adoptions, [S. L. 2019-172](#).

Effective October 1, 2019, Section 11 creates two new statutes to the Interstate Compact on the Placement of Children (ICPC). The new G.S. 7B-3807 gives the ICPC regulations that are promulgated by the Association of Administrators the effect of law in North Carolina. Those regulations can be found [here](#).

Section 12 creates G.S. 7B-3808, which addresses the need to provide all the necessary information to the state ICPC office at DHHS and refers to the ICPC regulations. Under G.S. 7B-3808, DSS is authorized to request from the sending agency or receiving state written notice of information that is required due to the receipt of an incomplete request. Upon receipt of the notice from DHHS, the sending agency has 10 business days to submit the requested information or withdraw its request. The ICPC Office at DHHS may treat the ICPC request as expired if the requested information is not timely received from the sending agency.

Note: Sections 11 and 12 enacting G.S. 7B-3807 and 7B-3807 are repealed by section 8.1 of H935 (Edition 4). That bill is still pending before the legislature. You can follow it [here](#). If it passes, I'll be sure to let you know.