

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1006

Short Title: Expedite Parental Rights Termination.

(Public)

Sponsors: Senator Gulley.

Referred to: Children & Human Resources.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE JUVENILE CODE TO EXPEDITE THE PROCEDURE
FOR TERMINATION OF PARENTAL RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.24 reads as rewritten:

"§ 7A-289.24. Who may petition.

(a) A petition to terminate the parental rights of either or both parents to his, her,
or their minor child may only be filed by:

- (1) Either parent seeking termination of the right of the other parent; or
- (2) Any person who has been judicially appointed as the guardian of the person of the child; or
- (3) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to whom custody of the child has been given by a court of competent jurisdiction; or
- (4) Any county department of social services, consolidated county human services agency, or licensed child-placing agency to which the child has been surrendered for adoption by one of the parents or by the guardian of the person of such child, pursuant to G.S. 48-9(a)(1); or
- (5) Any person with whom the child has resided for a continuous period of two years or more next preceding the filing of the petition; or

1 (6) Any guardian ad litem appointed to represent the minor child pursuant
2 to G.S. 7A-586, who has not been relieved of this responsibility and
3 who has served in this capacity for at least one continuous year; or

4 (7) Any person who has filed a petition for adoption pursuant to Chapter 48
5 of the General Statutes.

6 (b) Any person or agency having the authority to file a petition pursuant to
7 subsection (a) of this section shall be entitled to intervene in a pending abuse, neglect,
8 and dependency proceeding for the purpose of filing a petition to terminate parental
9 rights."

10 Section 2. G.S. 7A-289.27 reads as rewritten:

11 "**§ 7A-289.27. Issuance of summons.**

12 (a) Except as provided in G.S. 7A-289.26, upon the filing of the petition, the court
13 shall cause a summons to be issued, directed to the following persons or agency, not
14 otherwise a party petitioner, who shall be named as respondents:

15 (1) The parents of the child;

16 (2) Any person who has been judicially appointed as guardian of the person
17 of the child;

18 (3) The custodian of the child appointed by a court of competent
19 jurisdiction;

20 (4) Any county department of social services or licensed child-placing
21 agency to whom a child has been released by one parent pursuant to Part
22 7 of Article 3 of Chapter 48 of the General Statutes; and

23 (5) The child, if he or she is 12 years of age or older at the time the petition
24 is filed.

25 Provided, no summons need be directed to or served upon any parent who has
26 previously surrendered the child to a county department of social services or licensed
27 child-placing agency, nor to any parent who has consented to the adoption of the child by
28 the petitioner. The summons shall notify the respondents to file a written answer within
29 30 days after service of the summons and petition. Service of the summons shall be
30 completed as provided under the procedures established by G.S. 1A-1, Rule 4(j); but the
31 parent of the child shall not be deemed to be under disability even though such parent is a
32 minor. However, service of the summons under the procedures established by G.S. 1A-1,
33 Rule 4(j) shall not be required if the respondent has been previously served pursuant to
34 G.S. 7A-565. When a respondent has been previously served pursuant to G.S. 7A-565,
35 the respondent shall be served as provided under the procedures established by G.S. 1A-
36 1, Rule 5.

37 (b) The summons shall be issued for the purpose of terminating parental rights
38 pursuant to the provisions of subsection (a) of this section and shall include:

39 (1) The name of the minor child;

40 (2) Notice that a written answer to the petition must be filed with the clerk
41 who signed the petition within 30 days after service of the summons and
42 a copy of the petition, or the parent's rights may be terminated;

- 1 (3) Notice that if they are indigent, the parents are entitled to appointed
2 counsel. Any counsel previously appointed to represent a parent shall
3 continue the representation through this proceeding. ~~The~~ If a parent has
4 no previously appointed counsel, the parents may contact the clerk
5 immediately to request counsel;
- 6 (4) ~~Notice that this is a new case. Any attorney appointed previously will~~
7 ~~not represent the parents in this proceeding unless ordered by the court;~~
- 8 (5) Notice that the date, time and place of the hearing will be mailed by the
9 clerk upon filing of the answer or 30 days from the date of service if no
10 answer is filed;
- 11 (6) Notice of the purpose of the hearing and notice that the parents may
12 attend the termination hearing."

13 Section 3. G.S. 7A-564 reads as rewritten:

14 **"§ 7A-564. Issuance of summons.**

15 (a) Immediately after a petition has been filed alleging that a juvenile is abused,
16 neglected, or dependent, undisciplined, or delinquent, the clerk shall issue a summons to the
17 ~~juvenile, to the parent,~~ parent and to the guardian, custodian, or caretaker requiring them to
18 appear for a hearing at the time and place stated in the summons. A copy of the petition
19 shall be attached to each summons.

20 (a1) Immediately after a petition has been filed alleging a juvenile is undisciplined
21 or delinquent, the clerk shall issue a summons to the juvenile, to the parent, and to the
22 guardian, custodian, or caretaker requiring them to appear for a hearing at the time and
23 place stated in the summons. A copy of the petition shall be attached to each summons.

24 (b) A summons shall be on a printed form supplied by the Administrative Office
25 of the Courts and shall include:

- 26 (1) Notice of the nature of the proceeding;
- 27 (2) Notice of any right to counsel and information about how to seek the
28 appointment of counsel prior to a hearing;
- 29 (3) Notice that, if the court determines at the hearing that the allegations of
30 the petition are true, the court will conduct a dispositional hearing to
31 consider the needs of the juvenile and enter an order designed to meet
32 those needs and the objectives of the State; and
- 33 (4) Notice that the dispositional order or a subsequent order:
- 34 a. May remove the juvenile from the custody of the parent,
35 guardian, or custodian.
- 36 b. May require that the juvenile receive medical, psychiatric,
37 psychological, or other treatment and that the parent participate
38 in the treatment.
- 39 c. May require the parent to undergo psychiatric, psychological, or
40 other treatment or counseling for the purpose of remedying the
41 behaviors or conditions that are alleged in the petition or that
42 contributed to the removal of the juvenile from the custody of the
43 parent.

1 d. May order the parent to pay for treatment that is ordered for the
2 juvenile or the parent.

3 (c) The summons shall advise the parent that upon service, jurisdiction over the
4 parent is obtained and that failure of the parent to comply with any order of the court
5 pursuant to G.S. 7A-650 may cause the court to issue a show cause order for contempt.

6 (c1) The summons shall advise the parent that upon service, jurisdiction over the
7 parent is obtained for any subsequent hearing to terminate the parental rights of the parent
8 pursuant to Chapter 7A, Article 24B of the General Statutes.

9 (d) A summons shall be directed to the person summoned to appear and shall be
10 delivered to any person authorized to serve process."

11 Section 4. G.S. 7A-565 reads as rewritten:

12 **"§ 7A-565. Service of summons.**

13 (a) Petition Alleging That a Juvenile Is Undisciplined or Delinquent. – The
14 summons shall be personally served upon the parent, the guardian, custodian, or
15 caretaker, and the juvenile or counsel or guardian ad litem, not less than five days prior to
16 the date of the scheduled hearing. The time for service may be waived in the discretion of
17 the judge.

18 If the parent, guardian, or custodian entitled to receive a summons cannot be found by
19 a diligent effort, the judge may authorize service of the summons and petition by mail or
20 by publication. The cost of the service by publication shall be advanced by the petitioner
21 and may be charged as court costs as the judge, in his discretion, may direct.

22 If the parent, guardian, or custodian is personally served as herein provided and fails
23 without reasonable cause to appear and to bring the juvenile before the court, he may be
24 proceeded against as for contempt of court.

25 The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply
26 to juvenile process; provided the period of time for return of an unserved summons is 30
27 days.

28 (b) Petition Alleging That a Juvenile Is Abused, Neglected, or Dependent. The
29 summons shall be served upon the parent, the guardian, custodian, or caretaker as
30 provided under the procedures established by G.S. 1A-1, Rule 4(j) not less than five days
31 prior to the date of the scheduled hearing. Notwithstanding any other provision of law, a
32 minor parent of the child shall not be considered to be under disability. The time for
33 service may be waived in the discretion of the judge. Efforts to serve any unserved
34 parent shall continue after the hearing."

35 Section 5. G.S. 7A-577 is amended by adding a new subsection to read:

36 "(h1) At each hearing, the court shall also inquire as to the identity and location of
37 any missing parent to determine the need for continued nonsecure custody. The court
38 shall include findings as to the efforts undertaken to locate the missing parent and to
39 serve that parent. The order may provide for specific effort aimed at determining the
40 identity and location of any missing parent."

41 Section 6. G.S. 7A-587 reads as rewritten:

42 **"§ 7A-587. Parent's right to counsel.**

1 In cases where the juvenile petition alleges that a juvenile is abused, neglected or
2 dependent, the parent has the right to counsel and to appointed counsel in cases of
3 indigency unless the parent waives the right. In no case may the judge appoint a county
4 attorney, prosecutor or public defender. The court may, in its discretion, appoint counsel
5 for a missing parent for the purpose of ensuring that a complete and adequate search has
6 been made to determine the identity and location of that parent."

7 Section 7. G.S. 7A-657(c) reads as rewritten:

8 "(c) At every review hearing, the court shall consider information from the
9 Department of Social Services, the court counselor, the juvenile, the parent or person
10 standing in loco parentis, the custodian, the foster parent, the guardian ad litem, and any
11 public or private agency which will aid it in its review.

12 In each case the court shall consider the following criteria:

13 (1) Services which have been offered to reunite the family;

14 (1.1) The efforts made to determine the identity and location of any missing
15 parent;

16 (2) Where the juvenile's return home is unlikely, the efforts which have
17 been made to evaluate or plan for other methods of care;

18 (3) Goals of the foster care placement and the appropriateness of the foster
19 care plan;

20 (4) A new foster care plan, if continuation of care is sought, that addresses
21 the role the current foster parent will play in the planning for the
22 juvenile;

23 (5) Reports on the placements the juvenile has had and any services offered
24 to the juvenile and the parent;

25 (6) When and if termination of parental rights should be considered;

26 (7) Any other criteria the court deems necessary."

27 Section 8. This act becomes effective October 1, 1997.